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General Affairs Committee
January 26, 2015

[LB17 LB118 LB160 LB179 LB241 LB250 LB330 LR10CA]

The Committee on General Affairs met at 1:30 p.m. on Monday, January 26, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB250, LB17, LB118, LB241, LB179, LB160, LR10CA, and LB330. Senators present: Tyson Larson, Chairperson; Colby Coash, Vice Chairperson; Matt Hansen; Dan Hughes; Mark Kolterman; Merv Riepe; and Ken Schilz. Senators absent: Bob Krist.

SENATOR LARSON: Thank you, ladies and gentlemen, for coming to the General Affairs Committee. I am Senator Tyson Larson of O'Neill, Chair of the Committee. Committee members present or will be present: to my far right, Senator Kolterman of Seward; Senator Hansen of Lincoln; Senator Coash will be joining us soon, of Lincoln, he is the Vice Chairman of the committee; Josh Eickmeier, committee legal counsel. To my far left is Jeff Fryman, our committee clerk; Senator Riepe of Omaha; Senator Hughes of Venango. Senator Krist of Omaha; he had an emergency dental appointment. I'm not sure if he'll be here today, and Senator Ken Schilz of Ogallala. The pages here to help us today are Tobias Grant of Lincoln and Caitlin Welty of Omaha. Please notice that there are three different sign-in sheets located on the tables in the back of the room. One sign-in sheet is for those not publicly testifying but want their presence and position noted as an exhibit in the official records of the committee. A second sign-in sheet is for those who are present at the committee hearing and who offered written testimony in lieu of testifying which will be noted on the committee statement. That had to have been done by 1:30 on Friday. The third sign-in sheet is for anyone planning on testifying before the committee. When it is your turn to testify, give your sign-in sheet to one of the pages so they can give it to the committee clerk. This will help us make a more accurate public record. After each bill introduction, the Chair will ask for testimony in support, in opposition, and in neutral capacity. When you come up to testify, please speak clearly into the microphone. Please tell us your name and please spell your name, first and last. Also, please tell us whom you're representing, if

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anyone. We are using the light system for our hearings. Testifiers will have three minutes which will be represented by a green light when you begin, an amber light when you have one minute remaining, and a red light when your time is up. Please turn off your cell phones or any other...please turn your cell phones or any electronic devices on silent. And please keep your conversations to a minimum or take them into the hallway. The General Affairs Committee is participating in a pilot program to go paperless, therefore, we are only accepting handouts and written testimony electronically. Due to this new policy, if you would like to submit something but only have paper copies, then we will try to accommodate you. We also do not allow visual aids or any other display items. Because the committee is going paperless, senators are allowed and even encouraged to use electronic devices during the hearings because that's how all the materials have been submitted to them. Thank you for your cooperation. We will begin today's hearing with LB250 which I will introduce. And then I will come back up into the Chair. But since it is one of my bills, Senator Schilz is going to take over running the committee during my bill. And when Senator Coash, he will...he'll take over for Senator Schilz. When it's not one of my bills, I will be conducting the committee hearings.

[LB250]

SENATOR SCHILZ: Good afternoon, Senator Larson. You are ready to open...you're welcome to open. [LB250]

SENATOR LARSON: Thank you, members of the General Affairs Committee. My name is Tyson, T-y-s-o-n, Larson, L-a-r-s-o-n. I represent O'Neill and the 40th Legislative District. LB250 is fairly straightforward. Currently, state law requires a five-minute wait time between keno games. This bill would simply remove that requirement. When keno first started, there were concerns about the game becoming instant keno, so there was five-minute mandatory wait between games and players could also not activate their own games. Under this bill, there would still be an instant...there still wouldn't be instant keno since players can't start their own games. And from a practical standpoint, players would still need time between games to select their numbers. [LB250]

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SENATOR SCHILZ: That's it. [LB250]

SENATOR LARSON: That's it. [LB250]

SENATOR SCHILZ: Thank you. Any questions for Senator Larson? Senator Riepe. [LB250]

SENATOR RIEPE: Thank you. Senator, I guess my driving question, is this an intent to generate more revenue? Is that the bottom line? [LB250]

SENATOR LARSON: It's more, I think, a lot of players...not only generate more revenue, but just give the localities, whether that be Ralston or Omaha or Venango, just more flexibility. A lot of times there's that five-minute wait and there wouldn't necessarily need to be a five-minute wait. So it would just allow the bar, if the game is ready to start, they could start it. If it's not ready to start, oftentimes there might be even more than five minutes between a game if it's busy. Sometimes they could start immediately. [LB250]

SENATOR RIEPE: How many of these five...I'm not familiar with this so I'm curious. How many of these five-minute breaks would be in say, in an hour's time. [LB250]

SENATOR LARSON: Well, right now it is five minutes. So legally a keno operator can only start a game every five minutes. Like I said, sometimes they start...it's slower than that. But that's as fast as it can get. So under this bill we would just remove the time restrictions so a keno operator could start it. Once all the tickets have been written, they could start it. They wouldn't have to wait that mandatory five minutes. [LB250]

SENATOR RIEPE: Senator, do they have overlapping games going so that there's really continuous games? [LB250]

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SENATOR LARSON: It's my understanding that bars don't. They only have the one game going at a time so there's no overlapping. [LB250]

SENATOR RIEPE: Okay. Thank you. [LB250]

SENATOR SCHILZ: Thank you, Senator Riepe. Any other questions for Senator Larson? Seeing none, thank you. At this point we will take the first proponent. Welcome, sir. [LB250]

BILL HARVEY: Thank you, Senator Schilz and members of the committee. And also, thank you to Senator Larson for your leadership and sponsorship of this bill. We really appreciate that. My name is Bill Harvey, and that's B-i-l-l H-a-r-v-e-y, and I'm general counsel for Big Red Keno. And I really can't add anything to the description Senator Larson has already given you of this very simple bill which simply eliminates the time limit for keno games. I wanted to talk a little bit more about the why of this bill and kind of what, you know, the philosophy is behind this. For the last several years, several sessions, we've tried to look at things that we can ask the Legislature to do to try to make the keno game run more efficiently, to try to eliminate regulations that in our view just are not needed or have become anachronistic for whatever reason. And we've done that in a couple of different ways. A few years ago we came to you and talked about the rule that in order to write a keno ticket you had to go...there was a law that you had to go up to a human being to write your keno ticket. And the Legislature agreed with our position and the position of the senators introducing that at that time and decided to eliminate that rule and allow keno tickets to be written by a kiosk. So now you can go up to a kiosk and write your keno ticket in communities that have adopted that. Not all communities have adopted that yet. Some do, some don't. Again, it's subject to the community and how they want to handle that issue. We did a similar thing last session where we supported a bill that was to eliminate licensing of keno writers out in bars. We felt like there was a lot of paperwork that was changing hands that really wasn't necessary, wasn't accomplishing anything. And so we asked, again, to change that

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regulation. And we did that last summer, and that's worked really well. It's eliminated a lot of paperwork. Again, some communities do that. Other don't. The city of Lincoln has decided they want to continue to have us license keno writers and have them "backgrounded." So we do that in Lincoln. In other markets, they haven't made that decision. So it's a city-by-city thing, how they want to run their game, which is...really, keno is the city's game. I see that I have a minute on my time. This is the same idea. It's eliminating unnecessary regulation. This should be a matter between the cities and the keno operators to determine how best to run that game. Every time they've been given this kind of authority, they've used it very responsibly over the last almost 30 years now with keno, raised over \$350 million for community betterment statewide. And I believe you'll hear from some of the representatives of one or more of the city groups that will talk about that. So we really appreciate it. We appreciate your time for this hearing. We appreciate the introduction of this bill. We think it's a very simple matter and we urge your support to move it out to the floor. [LB250]

SENATOR SCHILZ: Thank you, Mr. Harvey. Any questions for Mr. Harvey? Senator Riepe. [LB250]

SENATOR RIEPE: Thank you, Senator. A question, I think I heard you say that in Lincoln they do background checks on the operators and that that's the only city. [LB250]

BILL HARVEY: No, not the operators, Senator. [LB250]

SENATOR RIEPE: Okay. [LB250]

BILL HARVEY: And let me clarify that if I misspoke. [LB250]

SENATOR RIEPE: (Inaudible). [LB250]

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BILL HARVEY: Operators continue to have background checks, which we support. But what the Legislature eliminated last year was the licensing of keno writers. So for example, if you have a satellite location at a bar, the law was that every bartender there who might write keno had to get licensed and be subject to a background check. And it ended up in a tremendous amount of unnecessary paperwork, created a lot of headaches for bars. You know, if somebody had a minor offense on their record that they forgot to disclose on their background check, it precluded them from being licensed for keno and they might not be able to work there anymore. So the Legislature looked at that last year and overwhelmingly voted to adopt that regulatory simplification. This is the same kind of thing. And you know, it's interesting because when we asked the Legislature to adopt that last year and we asked the Legislature to adopt the bill on allowing keno kiosks a couple years ago, we heard about all the dire consequences that would occur if the Legislature passed those bills. It's always, you know, kind of the same arguments. And none of those consequences have come to pass. The cities and operators have implemented those very successfully and really without incident. [LB250]

SENATOR RIEPE: Okay. Thank you. [LB250]

BILL HARVEY: Thank you. [LB250]

SENATOR RIEPE: Thank you for being here. [LB250]

SENATOR SCHILZ: Thank you, Senator Riepe. Any other questions for Mr. Harvey? Seeing none, thank you for your testimony. [LB250]

BILL HARVEY: Thank you. [LB250]

SENATOR SCHILZ: Next proponent. Good afternoon. [LB250]

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GARY KRUMLAND: Senator Schilz, members of the committee, my name is Gary Krumland representing the League of Nebraska Municipalities. My name is spelled G-a-r-y; last name is K-r-u-m-l-a-n-d. We're appearing in support of LB250. The reason we're supporting it is keno has been a benefit to cities all across the state. There are 529 cities and villages in Nebraska, and 162 of them have had the voters vote to allow keno within the city or village. So that's almost 31 percent...or a little over 31 percent of the cities and villages in Nebraska that do operate a keno operation. This is a good source of revenue for the cities. Under the law, keno revenue can be used for community betterment. And there's a long definition in the statutes, but it's generally used for special projects, not ongoing maintenance or anything like that, but special projects that a city may not otherwise have money to do: parks, buildings, purchases of law enforcement vehicles, things like that. So it's a good source or revenue. This is very important, especially now that cities are no longer receiving general state aid and things like that. So it is...any source of revenue is good for the cities, and this is a good source. We think anything that will make the game more efficient will be helpful. I don't know if will increase money, but at least maybe we'll maintain the revenue that comes in. There's competition and a lot of people will argue there's competition for more exciting games in Iowa, etcetera, etcetera. But keno has been good for cities across the state and we would like it to continue and have an opportunity to maintain the revenue that it's been brought in so far. I'd be happy to answer any questions. [LB250]

SENATOR SCHILZ: Thank you, sir. Any questions? Seeing none, thank you for your testimony. Next proponent. Good afternoon. [LB250]

JAKE CHELOHA: Good afternoon, Senator Schilz and members of the General Affairs Committee. My name is Jack Cheloha; it's J-a-c-k, and the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in favor of LB250. Currently in the city of Omaha, we do operate a Nebraska County and City Lottery Act, or commonly known as the keno game. The last numbers that I have available, and I apologize, but I think roughly from the year about 2013, I think Omaha

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itself from our game through our exclusive contract with Big Red, we raised about \$5.4 million annually in funds, which as you know and has been referred to by other witnesses, can be used for community betterment. Things of community betterment that we have spent the money on include purchasing or doing a lease purchase on police cruisers for our police department. We've utilized some of this money to help build the TD Ameritrade, which as you know, hosts the College World Series in our state of Nebraska every June. We've also used it to contribute to basic services and civic groups that do counseling whether it be related to alcohol or gambling problems or violence against women, etcetera. So each year, there's a slight deviation depending on how much is raised. But we do appreciate any money that's raised for the community betterment purposes. And we think that if you eliminate the five-minute rule, it may make the game more exciting and may give us an opportunity maybe to enhance some of the revenue for community betterment. With that, I'll try to answer any questions. [LB250]

SENATOR SCHILZ: Thank you, Mr. Cheloha. Any questions for Mr. Cheloha? [LB250]

SENATOR RIEPE: Senator, I have a question. [LB250]

SENATOR SCHILZ: Senator Riepe. [LB250]

SENATOR RIEPE: Jack, thanks for being here. The question that I have is, you noted Big Red Keno, do you have an exclusive agreement, a franchise with them? [LB250]

JACK CHELOHA: Right now that's my understanding, that that's our only provider of the game in Omaha. [LB250]

SENATOR RIEPE: Do you bid that out then? [LB250]

JACK CHELOHA: It is. [LB250]

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SENATOR RIEPE: And if so, how often? [LB250]

JACK CHELOHA: I think we do bid it out, the franchise comes up for renewal within a certain number of years. But I'd have to get back with our city clerk and actually get the contract to let you know. And I will do that. But I don't know off hand how many it is. [LB250]

SENATOR RIEPE: Thank you. [LB250]

SENATOR SCHILZ: Thank you, Senator Riepe. Any other questions? Seeing none, thank you for your testimony. [LB250]

JACK CHELOHA: Thank you. [LB250]

SENATOR SCHILZ: Further proponents, proponents for LB250. Seeing none, do we have any... [LB250]

SENATOR LARSON: We're going to have to take a break. The recording system just faltered. [LB250]

SENATOR SCHILZ: We will stand down for a few minutes and see if we can't get this fixed real quick. Thank you for your patience and hang tight. [LB250]

EASE

SENATOR SCHILZ: (Exhibit 1) Okay, thank you for the wait. We'll get started here and see if it's going to work. Sorry about the delay. We just got done with proponents. And there is one letter of support by James Moylan with the Nebraska Licensed Beverage Association. And that letter will be entered into the record. Now we are here for

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opponents, opponents to LB250. Good afternoon. [LB250]

PAT LOONTJER: Hi. Senator, I'm Pat Loontjer, L-o-o-n-t-j-e-r, and I'm the executive director of Gambling with the Good Life. And since many of you are new and I haven't had the opportunity to meet you, I'm commonly known as the "Grass-roots Grandma" because way back in 1995 when the gambling interests were coming into Nebraska--they had just taken over Iowa--we formed a group called Gambling with the Good Life, truly a grass-roots organization to oppose any form of expanded gambling. We know that there is gambling already existing in this state. And our philosophy is, enough is enough. We don't need any more. It's detrimental to society. It's detrimental to our families. So for 20 years we've testified, probably longer than all of you senators have been here, to stop expanded gambling in this state. And in 1995, I was a stay-at-home mom with five children. I now have 13 grandchildren. They're all living in Nebraska. And I do this because I want to protect their futures from expanded gambling and the dangers that it's going to bring if we allow this to proceed. As we were forming, we were joined by many prominent Nebraskans who truly cared about their families. Tom Osborne has been our honorary chairman through all of our campaigns. And when the issue was on the ballot twice, we were outspent 25 to 1, and in one case we defeated it by 61 percent of the vote. So the people have spoken. In 2004 and 2006, Nancy Osborne and I literally got into a rented van and we traveled the state to get the word out about what expanded gambling would have done in those two elections. And we were...we have so many prominent Nebraskans that have stood with us that are on our board. Ray Absher from Grand Island is president of Thompson Foods, Reverend Lauren Ekdahl from Scottsbluff, Dave Wimmer who is here today from West Point will testify. There's several other business leaders including our current Governor, Pete Ricketts has been on our board for ten years. These are people who truly care about the state of the state, with what's going on with families. And in addition to our...we have grass-roots supporters. We are the largest coalition, we believe, in the state. Virtually every denomination, religious denomination is in our coalition. And together we've gone forth of 20 years and fought the biggest gorilla that you can fight, which is the gambling

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industry. And this is an issue that crosses all barriers. And in 2004, as evidence, at the height of one of the elections, there was an editorial cowritten by Ernie Chambers and Tom Osborne. And those are just probably on different sides of the track on everything, but they do agree on this issue in that it is not good for the state of Nebraska to expand gambling. And back in 1995 when they first came in, the goal was then to take the Ak-Sar-Ben racetrack which was failing and turn it into the largest casino in the state. And that was defeated. And what is there now, I will just urge you to go up and see what is there. I mean it turned...the university now has housing there. They have dormitories. They have a science center. First Data is located there, Blue Cross Blue Shield, shopping centers. All of this prosperity and all of this tax revenue was generated by us keeping that casino out of the state. Oh, I got a red light. (Laugh) [LB250]

SENATOR SCHILZ: Thank you, Ms. Loontjer. We appreciate your testimony. Any questions? Any questions? Seeing none, thank you for your testimony today. [LB250]

PAT LOONTJER: Thank you. [LB250]

SENATOR SCHILZ: Next opposition. Good afternoon. [LB250]

AL RISKOWSKI: (Exhibit 2) Good afternoon. I'm Al Riskowski; it's R-i-s-k-o-w-s-k-i, with Nebraska Family Alliance and I am speaking in behalf of that group. Nebraska Family Alliance has worked to strengthen families here in the state of Nebraska. And as we look at LB250, we believe it's much more than a technical bill as was referred to earlier in the hearing. This does change the complexion of keno in bars. And I have just a couple thoughts I'd like to share with the committee, if you'd be so kind to hear. Number one, one of the comments brought forward was of course to increase some General Fund revenue. And our concern is that we take more money from the people. We've already talked about, and our Governor has talked about tax relief. This is a way of taxing people, indirect way. And we are concerned about that. If we want to raise revenue then one of the ways that could be done is change the percentages of keno as

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to what goes to the state of Nebraska. They could receive more than they currently are. The other issue that we have is in regard to the effects of what it will do if we change the times on keno. And that's why we're proposing perhaps a study be done because we have some real questions about what this would do. And I don't know that anyone has answered those questions. Number one, will the current keno players be the primary ones losing additional money? In other words, will you really be attracting any new players by speeding it up or just causing the current players to lose more money? So the second question is then, how many new players will you actually attract by changing the time? Thirdly, since most keno machines are placed in bars, how does the use of alcohol affect the number of games played by an individual? And I've done a...submitted a study that had been done in a number of community connecting the use of alcohol. And of course, it impairs one's capacity to think through what they're doing on occasion after only one or two drinks. So how does that affect one's keno playing. And then lastly, are more keno games played later in the evening indicating alcohol does tend to deteriorate one's judgment thus leading to excessive losses? So I appreciate the time by General Affairs and Senator Larson to be able to testify today. Any questions I'd be happy to answer. [LB250]

SENATOR SCHILZ: Thank you, Mr. Riskowski. Any questions? I guess I just wanted to ask one question. I know you said earlier that this is like a tax increase if...or it's a tax on folks that are coming in. But that money is used for community projects. So if you have that going on, wouldn't you...wouldn't it kind of cut both ways? Wouldn't it on some level be a tax...provide tax relief for certain communities if some of these projects were going to be done anyway? [LB250]

AL RISKOWSKI: Well, I think it's important if we identify projects that truly are beneficial to the general public, then the general public should support those particular projects that we take on, not target it at a particular group of people, and especially in a situation of this type where one could be vulnerable to give forth money or lose money in a disproportionate way. I believe it's important to guard the public, to have good

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government that will watch out and protect what could be a vulnerable situation. So in other words, if it's a good project then the general public should support it, not necessarily try and target various ways to raise this money as in keno where someone could be vulnerable. [LB250]

SENATOR SCHILZ: Okay. Thank you. Any other questions? Seeing none, thank you for your testimony. Appreciate it. [LB250]

AL RISKOWSKI: Thank you. [LB250]

SENATOR SCHILZ: Next opponent. Good afternoon. [LB250]

AMBER PARKER: Hello. Good afternoon. My name is Amber, A-m-b-e-r, last name Parker, P-a-r-k-e-r. I come as an opponent to LB250. Senator Larson's bill I believe will do great harm to the state of Nebraska and our families. I believe that right now what we have in the five minute is a safeguard. And there are compulsive gamblers. One name that rings a bell is Brenda Council. Brenda didn't know when to stop and even had embezzled money. And I think this is a story that shouldn't be silenced but needs to echo, especially within this committee with such an important piece of legislation that you are considering to pass out of committee. I have a personal testimony of a friend that I do know. Her husband was a gambler. And again, with Senator Larson's bill in removing this five minutes, this five minutes could mean the difference of someone being able to pay their mortgage, their groceries, or their children's...saving for their children's education. Removing these limits is going to be greatly devastating to Nebraska and their families. There's many other ways that we can have tax relief without destroying Nebraskan families. And there are many other ways for tax relief that would bless Nebraska and Nebraska families. And that is everything I have to say. [LB250]

SENATOR SCHILZ: Thank you for your testimony. Any questions for Ms. Parker?

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Seeing none, thank you for your testimony today. [LB250]

AMBER PARKER: Thank you. [LB250]

SENATOR SCHILZ: Next opponent. Good afternoon and welcome. [LB250]

GLEN ANDERSEN: (Exhibit 3) Good afternoon. Thank you for having me. My name is Glen Andersen, G-I-e-n A-n-d-e-r-s-e-n. I'm here to try to dissuade you from this five minute...from going away from the five-minute pause between plays. I have a question to start with here. First of all, I've noticed that, yes, there is quite a bit of money that's returned to the community. But I ask you, what intent does the person that comes in the door of a casino have? Is that person intending to give money back to community? Is that really what he's doing? No, he's...I believe he's probably wanting this game of chance and he's hoping to go away with more money than he came with. Now on the second page of my handout here I have a page that comes from the 2014 annual report of the Nebraska Department of Revenue Charitable Gaming. In this report, it says that the gross wagering was \$217 million. And the prizes were \$165 million. And if I understand this correctly, that means that the losses from this...on the...from the gambling that occurred in kenos is \$52 million. Okay, \$52 million of \$217 million wagered is 26 percent. That means that on the average, the person that walks into this bar expecting, hoping to win...if he walks in the bar with \$100, he's likely to walk out with \$75 because it's approximately a quarter of the wager is his loss. The gambler loses on the average 25 percent of the wager. Now this explains somewhat how we can bring that much to the communities. It also means that we're taking a lot from the person doing the gambling. And so I come back to the question, why does that person come into the door to play? And it's likely that he's going to come away with a pretty hefty loss. And... [LB250]

SENATOR COASH: Mr. Andersen. [LB250]

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GARY ANDERSEN: ...the other thing I'd like to mention is that the previous person...one of the previous persons has mentioned that faster speeds mean more excitement.
[LB250]

SENATOR COASH: Mr. Andersen. [LB250]

GARY ANDERSEN: And I believe that will be true. [LB250]

SENATOR COASH: Okay. Thank you very much. [LB250]

GARY ANDERSEN: Thank you. [LB250]

SENATOR COASH: Hold on, Mr. Andersen. We'll see if you have any questions from the committee. Guess not. Okay. For introductions, I'm Senator Coash, Vice Chair of the Committee. I just got back from another hearing. [LB250]

SENATOR SCHILZ: Just took my job. [LB250]

SENATOR COASH: Took his job. (Laughter) We'll continue with the opponents. Come on up, Mr. Wimmer. [LB250]

DAVE WIMMER: Good afternoon, Senators. My name is Dave Wimmer, D-a-v-e W-i-m-m-e-r. I live up in West Point. I made my living most of my life making hot dogs. So like those of you who have dedicated your current lives to political service, I kind of know what it's like to field unjustified criticism at times. But I would like to take just a minute to thank you for what you do. It's hard, serious, important, physical, and mental work. And I salute you, you newcomers and those of you who have been here, for doing what you do. I'm here today as a leader and a citizen in a small town in Nebraska, an employer, a parent, a grandparent. I'm in opposition to LB250 because I don't really believe it's good public policy to make this type of practice go faster or to enable more of

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it. What I do is...and I invite you to do the same. Go into a keno operation or a gambling operation of any kind. And in the case of this proposal it's keno and just look around. When I do that, I look around and I see things that tell me that for the most part, the people paying the bills in a keno parlor are people, perhaps very poorly equipped financially to do so. I think it makes it a tax on the poor. I also think it drains dollars from other organizations in communities--churches, businesses. I would encourage you to accept my invitation to go in and do the same. Sit down, thoughtfully look around and think about what you're seeing there and then ask yourself if it's good public policy to make more of this available to ourselves, our kids, our grandkids in Nebraska. Thank you. Any questions I'll be happy to answer. [LB250]

SENATOR COASH: Thank you, Mr. Wimmer. We'll see if there's any questions from the committee. Seeing none, thanks for coming down today. We'll take the next testifier in opposition. Welcome. [LB250]

LORETTA FAIRCHILD: (Exhibit 3) I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. I am a Ph.D. economist. Thank you, Senators, for all your high-quality work and your willingness to listen to my comments. Proposals like this to shrink the wait times between keno games come in frequently. So it is a good example of how members of this committee could improve the efficiency of the Legislature. How? It is a simple fact of economics that every action by the Legislature will produce winners and losers. And this information is vital for senators if they are voting to benefit the state of Nebraska as a whole. So please don't vote this out until the proponents provide research-based information on the who the major winners and losers will be and the size of each impact. The main reason given to justify this change is customers' increased happiness with faster play. Yet it is likely that the biggest winners will be the owners of the keno machines who expect to see an increase in profits. And yet no reference has been made to the likely losers who will be those most impacted when the increased speed makes it even easier for susceptible participants to become more addicted more quickly without sufficient time between rounds to consider where they are with respect to their

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personal loss limit. Another serious omission is the negative impact on other small businesses nearby as their sales drop because more dollars are going into keno and also reducing sales tax revenues in Nebraska. While other states have some information on their gambling addiction rates, such information is sadly lacking in Nebraska. Please keep this bill in committee and ask the proponents to first provide a small piece of legislation to fund the construction of a research framework and data bank to assess the current state of gambling addictions in Nebraska and track them going forward. Since Nebraska has virtually no comprehensive information available about the details of rates of addiction by types of gambling, which groups are involved, comorbidities, and so forth, it would be very odd for this committee to go forward with this bill as if it is only a small, rather unimportant detail on the agenda that can be rushed through with a clear conscience. Another glaring omission is detail on how keno is currently regulated and what costs are. What will be the impact of this bill in raising the costs of the regulation needed? The law of unintended consequences is significant in the downstream effects on gambling. I hope some of you will be willing to ask me questions so I can explain several of these points, including linking taxes to where the money is spent. [LB250]

SENATOR COASH: Thank you, Ms. Fairchild. We'll see if we have any questions from the committee. Seeing none, appreciate your testimony today. We'll take the next testifier in opposition. Come on up. While you're taking your seat, I'll read into the record a letter of testimony in opposition from Al Riskowski. Thank you. Come on up. [LB250]

CHRISTIAN MEIER: Good afternoon, Senators. My name is Christian Meier, C-h-r-i-s-t-i-a-n, Meier, M-e-i-e-r. I'd like to thank you for your time today. In hearing the discussion so far to this point, I've noticed that there are questions about efficiency, about the regulatory mechanisms that the state has the right to exercise and the duty and the obligation to do so. At this point in time, and I stand in opposition to the bill, part of my opposition is with regard to how precisely this would increase the efficiency of the keno system and what benefit that would have and to whom that benefit would be most

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particularly present. I also want to encourage you as senators to understand my viewpoint that the regulatory mechanisms of the state are put to good use when they restrict and channel and guide some these types of activities. But my question today is a question for Senator Larson and also for the greater body here today and also for the Unicameral as a whole. And the particular question is this, are there any vested interests, Senator, that would be present in your affairs that would result from the passage of LB250? And does anyone know of any other vested interest that would come into play amongst the Unicameral as a whole? Thank you. [LB250]

SENATOR COASH: Okay. Thank you, Mr. Meier. Senator Riepe, you have a question. [LB250]

SENATOR RIEPE: I've got a question that you brought to light and that is, what is the oversight on these various, you know, keno parlors, if you will? Are you familiar with that? I thought I picked up that might be in your area of knowledge. [LB250]

CHRISTIAN MEIER: I have no particular knowledge of keno gaming. I've lived in Minnesota for some time. I'm now a resident of West Point, Nebraska, and have been a citizen of the state for the last seven years. I can say that from my experience in Minnesota, that the regulatory bodies helped, in my opinion, to reduce the difficulty and the associated frustrations that might come with alcohol and crime attended to also gambling. [LB250]

SENATOR RIEPE: Okay. Thank you. Thank you for being here. [LB250]

SENATOR COASH: Thank you, Senator Riepe. Thank you, Mr. Meier. Any other questions from the committee? Seeing none, we appreciate your testimony today. We'll take the next testifier in opposition. Welcome. [LB250]

JENISE BROWN: Good afternoon, Senators. My name is Jenise Brown. And I am here

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representing my husband and myself. I want to thank you also for your service to the state of Nebraska and very much appreciate the difficult decisions that often come across your desk. I happen to think that this one is not a difficult decision if you're looking after the citizens of the state of Nebraska and not just merely a way of raising funds and money for government to spend. I have been a victim of an embezzler who gambled away \$4.2 million. I was a citizen of the city of Omaha. And so if the gentleman who testified that they raised \$5.4 million, maybe he would like to use some of that to pay me back. I have been through and going through the legal system for the last three years trying to get some of it back and have actually gained zero and actually spent quite a bit of money on attorneys. I'm very passionate about this subject. I used to not have an opinion about gambling. We had no idea, no idea that our CFO was mentally ill. She didn't appear mentally ill. She didn't...she showed up for work every day. She did her job very well apparently because she was able to hide it quite well. And every single night or at least four nights out of the week, she was over at the casino spending money. I know this particular bill is about keno but I will tell you my very first gambling experience was in a casino and you had to pull the coin, put a coin in, and pull the lever. Put a coin in and pull the lever and it took time over the evening to do that. You are trying to speed up by this bill, gambling and money and getting a person to spend more money than they probably will realize by the time they go home. They'll wake up the next day and they'll think, crap, I just lost my house payment last night, or you know, or something else or my daughter's tuition for school or whatever. Your job is to protect the citizens of the state. And someone earlier said something about guarding the public. I wish someone had looked after me by putting some rules in place about how much money these people can spend. She was spending tens of thousands of dollars in a night. And it was predatory gambling in my opinion. She was enticed. She was asked to come back. She was begged to come back. She was wined and dined to come back. And she had an illness and she had alienated herself from her family to the point where she had no support system. She had put two other businesses out of business prior to mine, okay? So please think about what decisions you're making on the behalf of the state of Nebraska. And I'm asking you to seriously do what Dave Wimmer said: Go look

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at what's happening in these places before you make this decision. I understand that some people think that is a form of entertainment. Go home and play cards with your family for entertainment. [LB250]

SENATOR COASH: Thank you, Ms. Brown. [LB250]

JENISE BROWN: Yes. [LB250]

SENATOR COASH: The light is one. Appreciate your testimony. We'll see if we have any questions for you before get up. Guess not. Okay, we'll take the next testifier in opposition. Seeing none, we'll move to any neutral testimony on LB250. Seeing none, Senator Larson, you're recognized to close. [LB250]

SENATOR LARSON: Thank you, members of the General Affairs Committee, for the hearing. Real quick, I want to point out a few things. First of all, this isn't instant keno. This isn't slot machines. They can't come out and run instant game after game after game. The numbers will still have to run. I think we've all probably been to some place that has keno. There's time involved. Then they'll have to write the tickets. There will still be time involved. And I think that's the thing that we have to remember here. This isn't: Press the slot machine, watch it go, press the slot machine. No. So I just wanted to make sure that was correct for the record. Keno does offer a lot of community betterment projects. We heard the registered lobbyist from Omaha, Mr. Cheloha, mention police cruisers. I'm sure Ralston has a lot of very excellent projects that happen. I'm not sure if Venango has keno (laugh)... [LB250]

SENATOR HUGHES: No, they don't. [LB250]

SENATOR LARSON: But Chase County possibly. And I think we all have it in our communities and understand, you know, the parks in O'Neill benefit from something of this nature and things like that. I think we also have to remember...one philosophy that I

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live by in terms of how I represent my constituents is government isn't there...government is there to protect you from other people. It's not there to protect you from yourself. And we do have modes of personal responsibility that we believe in. That's what drives my conservative principles. And we have to remember that. Do you want to be baby-sat all the time? And I would say I personally don't. And that will be something that the committee can talk about when this comes into Exec Session. But I appreciate the time. And I'll stop so we can get on to the other seven bills. [LB250]

SENATOR COASH: Thank you, Senator Larson. Any final questions for the senator? Seeing none, thank you, Senator Larson. We'll turn it back over to you for introduction of the next bill. [LB250]

SENATOR LARSON: Thank you, and we'll move on to LB17 by Senator Krist. Good afternoon, Mr. Krogh. [LB17]

RODNEY KROGH: Good afternoon, Senator Larson, members of the General Affairs Committee. For the record, my name is Rod Krogh, R-o-d K-r-o-g-h. I serve as the senior legislative aide for state Senator Krist who represents the 10th Legislative District. Senator Krist conveys his regrets for not being here today. Dental issues have him back to Omaha today. To be brief, Senator Krist wants to recommend LB17 be indefinitely postponed at the next Executive Session at which time he will explain to the committee the details and lack of need for additional funding for the Gamblers Assistance Fund program. Thank you. [LB17]

SENATOR LARSON: Thank you, Mr. Krogh. And with that, due to legislative rules since the primary introducer has requested that it be indefinitely postponed, I can end the hearing immediately. So we will move on. Thank you. And we will go back to my bill, LB118. (See also Exhibit 1) [LB17]

SENATOR COASH: Okay, so we will open up the hearing on LB118. Senator Larson,

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you are recognized to open on your bill. [LB118]

SENATOR LARSON: Thank you, members of the General Affairs Committee. I am Tyson, T-y-s-o-n, Larson, L-a-r-s-o-n, and I represent the 40th Legislative District from O'Neill. LB118 provides licensure for cigar shops. I introduced LB118 in response to recent Nebraska Supreme Court decision that declared cigar bar unconstitutional. I believe the Legislature has the authority and the prerogative to establish policy and create exemptions therein. I believe that such establishments are constitutional and this bill is intended to clarify their constitutionality. Cigar bars have been a legal business since 2009 and combine two legal activities for those who are of age which are smoking cigars and drinking alcohol. However, with the passage of the Nebraska Clean Indoor Air Act, smoking in establishments like bars became illegal. Since the act's passage, the Legislature passed an exception allowing cigar bars. There were concerns by opponents that such an exemption would substantially undermine the Nebraska Clean Indoor Air Act and that bars wanting to allow cigarette smoking would pose as cigar bars in order to get around the act. To address these concerns, certain criteria were required in order to qualify as a cigar bar such as having a walk-in humidor, a minimum of 10 percent of its gross revenue from tobacco products, tobacco-related products and cigars but not cigarettes, and could not sell food. Cigarette smoking was also expressly prohibited within cigar bars. With fewer than a dozen cigar bars across Nebraska, the fear that there would be bars everywhere posing as cigar bars has proven nonexistent. It would seem that the intent to have a narrowly tailored exception in the Nebraska Clean Indoor Air Act had been accomplished. It should be noted that having such exceptions in statutes is nothing new. In fact, it's a common part of the legislative process. Many bills require a compromise in order to garner the necessary support to pass the Legislature as well as to ensure that such a statute is not overreaching or unnecessarily broad which may result in a negative and sometimes unintended consequences. The clear purpose of and intent of the Nebraska Clean Indoor Air Act is to protect the public and employees from exposure to secondhand smoke. However, such a broad purpose does not mean that exceptions are inherently prohibited or

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unconstitutional. I believe such a narrow exception as the one that has existed for cigar bars would not swallow the rule in this case. Given that these bars would end the minority...were in the minority, there would be plenty of other establishments for individuals wishing not to be exposed to cigar smoke to patronize. Similarly, employees would have numerous opportunities to work in establishments that do not allow smoking if such exposure were a concern. If I were...if this were a concern then I would propose presenting those applying for a job in a cigar bar with a consent or waiver form to ensure they are fully aware that they will be exposed to secondhand smoke. I understand that the public should be able to patronize businesses without being exposed to secondhand smoke which made sense when the smoke-free establishments were the minority and the public...and the public basically had no choice but to be exposed along with other families to secondhand smoke. But why would someone who doesn't want to be exposed to secondhand smoke go into a cigar bar? It's a cigar bar, so the public will know there will be cigar smoking taking place. That person is not being deprived of anything of substance because he or she can drink alcohol at any number of other locations and the cigars that are being sold and smoked in the cigar bar are of no interest to him or her. In the past, secondhand smoke was a peripheral element of these establishments where smoking was allowed. But at a cigar bar, smoking cigars is the primary reason for going there. I know someone may sell...I know someone may sell well...say, why should cigars and pipe tobacco be treated differently than cigarettes? Well, the answer is simple. Cigars are significantly different in what they contain and how they are made. People are often not bothered by cigar smoke in the same way they are bothered by cigarette smoke. Cigars tend to be smoked leisurely for an extended period of time as a hobby, whereas cigarette smokers tend to smoke as a habit necessary to satisfy their addiction. This can simply be illustrated during a harsh Nebraska winter when you will see people standing in the cold smoking a cigarette, yet you don't typically see people standing in the cold smoking a cigar. Cigars can be paired with particular spirits to enhance the flavor and enjoyment of both. This is similar to food that may be paired with certain craft beers to achieve a similar enjoyment. So while the intent language in this bill may seem pretentious, it is intended to illustrate the

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differences between cigars which tend to be more sophisticated than your typical cigarettes. I have seen the pendulum swing from smoking being allowed seamlessly everywhere including restaurants and bars, government buildings like the Norris Legislative Chamber, and even airplanes. In Nebraska and in many other states, the pendulum has swung back to where smoking has been banned in all of these establishments. What we are attempting to do here today is what other states have also attempted to do, which is strike a balance between respecting the liberty rights of those wishing to smoke a cigar or pipe without trampling the rights of the general public who...to not unwillingly be subjected to secondhand smoke. It is my hope that the Supreme Court will respect and appreciate what it is we are trying to do here today. As a public policy, I agree that we should not be arbitrarily deciding in which bars you can smoke and which bars you cannot. This is not special legislation in that cigar bar license applications do not require an arbitrary or unreasonable method of classification or creates a permanently closed class because anyone who can meet the criteria could apply and qualify for a cigar bar license. Also, I have previously explained and reason I believe that there is a substantial difference of circumstances between the exempted and nonexempted businesses which would suggest the expediency of this diverse legislation. I don't believe that given the small number of cigar bars that this exception has given these businesses any noticeable advantage over other liquor licensees or tobacco specialty shops. I have not heard of any cigar bars...any bars or cigar specialty shops that have gone out of business due to cigar bars. I believe that the cigar bar bill that was passed in 2009 did what the Legislature intended it to do. Therefore, I am asking your support of LB118 as narrowly tailored exception to the Nebraska Clean Indoor Air Act. [LB118]

SENATOR COASH: All right. For the record, I appreciated you bringing this bill. I was part of the group of senators who supported it in 2009. I think personally the Supreme Court got it wrong. And I'm happy that you brought this correction for the body's consideration. Senator Riepe, you have a question. [LB118]

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SENATOR RIEPE: Senator, yes. The Supreme Court has ruled and you have stated that in your opinion that they've erred in their judgment. My question would be is, are we well served to review that as a committee until we get clarification on the constitutionality of it all? [LB118]

SENATOR LARSON: Well, the Supreme Court ruled that the 2009 law was unconstitutional as essentially a special exemption. And in their Opinion, they offered us guidance in terms of how to draft the next bill, i.e. LB118, to make it constitutional. And that's what we're doing in this bill. The previous bill, I think it was LB355 as drafted they felt we didn't open up...because we weren't opening up the Clean Indoor Air Act and stating the correct intent, they said it was unconstitutional. That's what we're cleaning up in LB118. And we're making these current establishments constitutional by stating our intent and going into the Clean Indoor Air Act. [LB118]

SENATOR RIEPE: Has our legal counsel for the committee determined that he feels that it meets the constitutionality of it all? [LB118]

SENATOR LARSON: Yeah, the introduced LB118... [LB118]

SENATOR RIEPE: And has that gone out because I know my LA was having...and I happen to be fortunate enough to have an attorney. You know, she's going through to try to sort this thing out herself. [LB118]

SENATOR LARSON: Yeah, legal counsel, LB118 as introduced we do feel was constitutional. And obviously through the committee process and the hearing process, we might have suggestions on how to make it even more constitutional. But we still do believe LB118 as introduced was constitutional and we will continue to make it a better bill. If there is someone...I know Mr. Schutz, a University of Nebraska law professor, wrote that maybe we, to make it even stronger, we talk about the economic impact of cigars to these shops. And that helps the constitutionality of it. So we will go through the

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hearing process. And if there are ideas to make it even better or even a stronger case for the Supreme Court, we will implement those ideas into the bill through a committee amendment. [LB118]

SENATOR RIEPE: Thank you. [LB118]

SENATOR COASH: Thank you, Senator Riepe. Seeing no other questions, Senator Larson, thank you. We're going to start the testimony on LB118. We're going to start with the proponents. So we'll have you come on up. Welcome. [LB118]

JEFF DOLL: Good afternoon, Senators. Thank you for hearing us today. I'm here to support LB118. My name is Jeff Doll, J-e-f-f D-o-l-l. Cigar smoking is a relaxing and social activity. My cigar business depends solely on customers coming in and having a cigar and an occasional drink in a professional, businesslike atmosphere. Only 40 percent of my business comes from alcohol sales. The remaining 60 percent of my business is from cigars that customers purchase to smoke in my business. The passage of the Nebraska Clean Indoor Air Act already proved the devastating effect not being able to smoke indoors will have on our business. After the passage, my shop, not the shop I now own, lost 85 percent of its business in the first week and then it continued declining, eventually went out of business. Even with the cigar bar exemption, the competition for cigar smoking is really very difficult. Eighty-five percent of my patrons buy cigars on-line because those cigars are noticeably less expensive. On-line retailers do not pay tobacco or sales tax. I pay 20 percent tobacco tax to the state of Nebraska, additional 3 percent tobacco tax to Omaha, and 7.5 percent in sales tax. Customers come to my establishment to smoke cigars but not because we sell the least expensive cigars. They buy from us because we have excellent service and provide a relaxing social environment to build camaraderie between patrons and a loyalty to our business. Without the option to smoke indoors, we have no way to build relationships with customers. And have...it would be completely solely on price. I cannot compete with on-line pricing. Indoor smoking has allowed Nebraska's cigar bar owners to pay over

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\$500,000 a year in taxes, purchases over \$3 million in services and goods locally, holds \$400,000 in property lease, employs 74 people. In the last eight years, not one of the cigar bars in Nebraska has had a violation of any kind, and collectively we raised over \$45,000 for charities a year. Without indoor smoking, thousands of my customers lose their place to enjoy a cigar. The business owners lose ability to build loyalty with their customers and all 11 cigar bars will close. This is about protecting Nebraska's small businesses. Thank you and I'm open for questions. [LB118]

SENATOR COASH: All right. Thank you, Mr. Doll. Any questions? Senator Riepe. [LB118]

SENATOR RIEPE: I have a question. Do you have an occupancy level? I'm only reminded of years ago in the airports, they had little glass-enclosed boxes and the smokers were in there. I mean it was like a big cloud. So my question is, do you have an occupancy level that you enforce? [LB118]

JEFF DOLL: I have an occupancy of...I have a 3,600 square-foot operation. I can have 80 people in there. I have a system that churns the air nine times an hour so you don't get that. You don't pick up smoke. It just mainly goes out and it runs through...a set of filters is about...half-section is one of those curtains. [LB118]

SENATOR RIEPE: But do you monitor the 36 almost like the fire marshal is going to come? [LB118]

JEFF DOLL: We seldom ever get that far in a day. My business starts at 2:00. It's five, ten people. Cigar smokers aren't somebody that comes in and sits there and smokes and drinks all day. They come in and have a cigar, have a drink, maybe just a cigar, then go. They just kind of keep on turning and moving. [LB118]

SENATOR RIEPE: So it's driven by the number of new fathers and (laughter) maybe

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national championships, huh? [LB118]

JEFF DOLL: I wish. [LB118]

SENATOR RIEPE: Okay. Thank you. [LB118]

SENATOR COASH: Thank you, Senator. Any other questions for Mr. Doll? Seeing none, thanks for coming down. [LB118]

JEFF DOLL: Gentlemen, thank you. [LB118]

SENATOR COASH: (Exhibit 1) We'll take the next testifier in support. Come on up. While you're making your way up here I'll read into the record a few letters of support. The first by, I hope I say the name correctly, a letter in support from Mr. Moylan representing the Nebraska Licensed Beverage Association. And welcome. [LB118]

GLYNN LOOPE: (Exhibit __) Hi. Mr. Chairman, members of the committee, thank you for having me today. My name is Glynn, G-l-y-n-n, Loope, L-o-o-p-e. I'm the executive director of Cigar Rights of America which is a national advocacy organization for cigar consumers, retailers, and manufacturers of premium cigars, a truly artisan and cultural product. Over the course of the last four days, I have visited 10 of the 11 premium cigar shops and lounges of Nebraska. At the end of the day I'll hit number 11. Based upon this tour, one can readily see how these Nebraska small businesses are an integral part of the community fabric. They are professionals, responsible and service-oriented group that cater to a true cross section of the community. This was personified Friday evening at the Nebraska Cigar Festival where 300 cigar consumers gathered under a special use permit to enjoy each other's company all over premium cigars. Men, women, every racial, ethnic, and socioeconomic demographic was represented spanning ages, I'm sure, from 21 to over 70 just to enjoy a cigar in the company of others. We have submitted into the record a recently completed health policy analysis as it pertains to

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premium cigars that was used in our submission the U.S. Food and Drug Administration. It documents how cigars are characterized at being at the low end of the health-risk continuum with lack of inhalation, lack of addictive qualities, and lack of youth access factors in that study. We have also submitted into the record a draft employee waiver based upon an Oregon cigar bar statutory model. You see, individuals in these shops and lounges want to work in these business. This would enable you to address the issue of employee protection by noting their true desire to work in these Nebraska small businesses. Cigar consumers are using these shops and lounges as branch offices, working on computers while enjoying a cigar or to meet with friends over coffee or a cocktail, again, all over a cigar. The atmosphere lends itself to such gatherings meetings and camaraderie. Forty-seven states allow the enjoyment of cigars in cigar shops. I would have to go to the Pacific Coast and specifically the state of Washington and the Atlantic Coast, literally the state of Delaware or up to Vermont to find another state subjecting cigar shops to this type of dilemma, scrutiny, threat of closure, or curtailment of business or consumer choice. Even states with the most stringent of indoor clean air act standards such as a California, an Oregon, and a Maine allow the enjoyment of cigars in their respective lounges. Based upon these travels in Nebraska and throughout the nation, I can attest that these shops in Nebraska are among the best in the country. It would be truly wrong not to afford the patrons and consumers of this state and the businesses that serve them...and the businesses that serve them the protection to conduct their business to enjoy their cigars all made possible by virtue of LB118. I hope it'll be your pleasure to advance the bill. [LB118]

SENATOR COASH: Thank you, Mr. Loope. Let's see if we have any questions from the committee. Seeing none, we appreciate you coming down today. [LB118]

GLYNN LOOPE: Thank you. [LB118]

SENATOR COASH: We'll take the next testifier in support. [LB118]

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BRADLEY BOYUM: My name is Bradley Boyum; first name is spelled B-r-a-d-l-e-y, last name is B-o-y-u-m. I'm from Omaha, Nebraska. I am testifying on behalf of, I guess, the customers. So I am a customer of these establishments. And I wanted to give you the customer perspective. LB118 actually touches on and Chairman Larson brought up the fact that these products are different in the type of tobacco that they use from cigarettes, but they're also designed to go with spirits and different types of wine, also designed, you know, to go with the taste of chocolate and coffee and that sort of stuff. But the issue is really deeper than that. Cigars are social. It's a relaxing and social activity. So these bars or these cigar shops are meant for that purpose. You go in and there are lounges. They're designed to relaxed in and frankly not offend any one that doesn't want to be around the cigar smoke. So I can tell you, it's not very relaxing to have a cigar next to someone who's fake coughing and making comments under their breath about my cigar. So it's just easier for me to go to a cigar shop and sit there and relax. If you've never been in a cigar shop, they're really kind of amazing places. Mr. Loope touched on it a little bit. But something as small as a cigar can link such a wide group of people together. You know, I've met and become friends with doctors, lawyers, judges, pilots, mechanics, plumbers. Just a couple weeks ago, a friend of mine came in and a friend of his was visiting him for the first time in Nebraska and he happened to be the starting tailback for an NFL team. So that sort of stuff happens fairly often. And it's all over a cigar. Locally, because of the number of people in...that actually enjoy cigars, people are very familiar with each other. And there's a limited number of places we can go so they tend to be very enjoyable, happy places because you tend to know a lot of the people in there. And the simple fact is most of the places in the country are like that. In closing, I just want to touch on the fact that if this bill fails the thing I'll miss the most is the camaraderie between the patrons and the bar owners. It's an enjoyable place to go. For instance, the Super Bowl is coming up, to go with my friends and enjoy a cigar or sit there by myself and read a book, whatever I want to do. You know, if I want to eat, I go to a restaurant. If I want a cigar, I go to a cigar shop. So passing this bill will remain the...keep the status quo from the last year that I think...the last five years that I think has done very well. There's been a few cigar bars and I think that's, economically, that's

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about all we can handle. So let's keep these great businesses alive in Nebraska.
[LB118]

SENATOR COASH: Thank you, Mr. Boyum. Any questions from the committee?
Senator Riepe. [LB118]

SENATOR RIEPE: I have a quick question. In the cigar bars, do they keno or other
forms of gambling in there, too, or is that sort of persona non grata? [LB118]

BRADLEY BOYUM: There is, that I know of, there is no gambling in the cigar bars that
I've been in. [LB118]

SENATOR RIEPE: Okay. Just curious. Thank you. [LB118]

SENATOR COASH: Thank you, Senator Riepe. Any other questions? Seeing none,
thanks for coming down today, Mr. Boyum. [LB118]

BRADLEY BOYUM: Thank you. [LB118]

SENATOR COASH: We'll continue on testimony in support of LB118. Welcome.
[LB118]

ANNA BELLAMY: Hi. My name is Anna Bellamy, A-n-n-a B-e-l-l-a-m-y, and I am a
bartender at Safari Cigars in Omaha, Nebraska. I've been provided with a great
opportunity to work for a great employer and be able to learn more and more every day.
And it's been truly great to work there. For two years, I've chosen to commute from
Lincoln to Omaha, which is 120-mile round trip. And I choose to do that every day
because I love my job. I love going in there. I'm treated very well not only by employers
but by the patrons, and like said before, a very wide variety of patrons that come in. I've
created lasting relationships and I continue to be able to network with a variety of

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professionals on a daily basis. And that's something I haven't been able to find in other service industry places that I have worked. The atmosphere that we have there is truly unique in that it provides a place for customers to enjoy a cigar and a beverage if they choose. For those who choose not to drink alcohol but still enjoy having a cigar and a social atmosphere, I feel that it's unique that they're able to do that and not be in a social setting that is completely centered around drinking. And personally in my life, that has been something that's been beneficial for me and my husband to have something to do that's not all drinking. I would also like to make it clear that my job, due to our efficient air handling system, the smoke is insignificant to me. And I do choose to work there. And it doesn't create a problem for me. Passing LB118 will ensure and protect that my choice to work at Safari Cigars can continue. Thank you. [LB118]

SENATOR COASH: Thank you, Anna. Let's see if we have any questions. So you work in these places? [LB118]

ANNA BELLAMY: Yes. [LB118]

SENATOR COASH: You know it's smoky. [LB118]

ANNA BELLAMY: Yes, I do. [LB118]

SENATOR COASH: You work there anyway. [LB118]

ANNA BELLAMY: I do. [LB118]

SENATOR COASH: Okay. I want to get that on the record. Thanks for coming down today. (Laughter) We'll take the next testifier in support. [LB118]

SCOTT LAUTENBAUGH: Good afternoon. [LB118]

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SENATOR COASH: What are you doing here? [LB118]

SCOTT LAUTENBAUGH: (Laugh) [LB118]

SENATOR COASH: Good to see you again, Senator. [LB118]

SCOTT LAUTENBAUGH: My name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h. I represent the Nebraska Premium Tobacco Association here testifying in favor of LB118. I had gone back and forth on the need, but I want to speak a little bit about the constitutional issue and the need to address it. I was the sponsor of the original bill, LB355, back in the day. Thank you very much. It's like old times. (Laughter) And we passed that cigar bar exception in a different session from the Clean Indoor Air Act. The Clean Indoor Air Act initially had an exception that would have covered cigar bars and it was taken out in an amendment on final reading if you will. And I tried to stop that at the time. I think some people didn't realize it was being taken out because there was a bigger issue, a local opt in or opt out that was also being removed simultaneously. And the Supreme Court decision, I think I can safely say, it was a surprise to everyone as the prior bill was vetted by the Attorney General I think twice and was found to be constitutionally sound. The Supreme Court decision seemed to turn on the fact that the stated intent of the Clean Indoor Air Act did not leave room for exceptions, even exceptions contained within the Clean Indoor Air Act for smoke shops themselves which were part of the original bill, so obviously contemplated by the senators that passed the original act. That was an innovation in constitutional law. And dealing with it here...yes, I'm being diplomatic, Senator Coash. It was an innovation that a lot of us did not see coming. We believe this bill with its substantially beefed-up intent language and maybe some additional intent language altering what's set forth in the Clean Indoor Air Act to say that exceptions are contemplated obviously because they exist to the original act itself, would address the Supreme Court's concern. It was an unforeseen and previously unarticulated concern by the Supreme Court in any area that I'm aware of. And we believe this bill addresses it and can be made to clearly address it. I'd be happy to

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answer any questions you may have. [LB118]

SENATOR COASH: All right. Thank you, Senator Lautenbaugh. I'll just make a comment and you can respond if you want and then Senator Riepe has a question. But the thing that I didn't understand about the Supreme Court's decision was, as I look at the law, for example, we tax every item that is sold in this state unless the Legislature says we're going to exempt a tax on that. And we choose not to tax every service in the state unless the Legislature says we're going to tax that particular service. And so it seems like we do a lot of that around here, picking and choosing what we want taxed and what we don't want taxed. And we choose exemptions when it suits 25 of us. And that seems...it was troubling to me and if you have a comment on that you can get it on the record. If not, we'll go to Senator Riepe. [LB118]

SCOTT LAUTENBAUGH: I think we better just keep that amongst ourselves (laughter) because an ambitious attorney or an ambitious municipality that thinks that sales tax revenues are a little low could read the cigar bar decision to make a lot of mischief because again, it was a surprise that subsequent Legislature would have to go back and amend the stated intent in a prior bill that it could have repealed outright because I don't think every time we grant a sales tax exemption we go back and change the stated intent of the initial sales tax law. [LB118]

SENATOR COASH: Well, I'm glad you say that because I don't know if that was said in the original bill and if it would have been, the Supreme Court may have read that and thought, gee, I guess if this is unconstitutional, all the exemptions the Legislature does in tax law fall under the same category. [LB118]

SCOTT LAUTENBAUGH: It was an unusual Supreme Court decision in that the cigar bar owners were not a party to the action. It was litigation between the state and another party that was upset they did not get their own exception. And the cigar bar owners were not parties to the litigation and were not present to argue that particular

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point. And the state tried valiantly to give voice to that, but it was not present to the initial litigation. The cigar bar owners were not in that argument. It may have...may need to be made more forcefully, or maybe could have been originally. But there was not a party working on that particular aspect of it initially. [LB118]

SENATOR COASH: Thank you, Senator. Senator Riepe, you have a question. [LB118]

SENATOR RIEPE: Thank you, Senator. Senator, welcome home, first of all. You've always been my git-r-done senator. When something needed to be addressed, you went after it. My question is, are you personally responsible for normalization of relations with Cuba in order to access Cuban cigars? (Laughter) [LB118]

SCOTT LAUTENBAUGH: I don't know that I have a sophisticated enough palate to make that worthwhile. [LB118]

SENATOR RIEPE: Just wanted to know. [LB118]

SCOTT LAUTENBAUGH: The ones from various other countries have probably risen enough in quality to make it fairly meaningless to me. So I can't take credit for that. [LB118]

SENATOR RIEPE: Thank you. [LB118]

SENATOR COASH: Thank you, Senator Riepe. I don't see any other questions from the committee. [LB118]

SCOTT LAUTENBAUGH: Thank you. [LB118]

SENATOR COASH: Welcome back. Thanks for being here. We'll take the next testifier in support of LB118. Welcome back, Ms. Brown. [LB118]

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JENISE BROWN: Thank you. I didn't come here intending to testify on this bill, but I can't sit back there and not say anything. The company that was put under by the embezzler in my case was probably the company that supplied a lot of these gentlemen's business, Colombo Tobacco and Candy in Omaha. And just from my experience and watching my husband do business over the years, I'm in support of this. I'm not a smoker. I don't advocate that my kids smoke. In fact, I strictly forbid that they smoke. But there is a time and a place for people I think and choices and free choice. And the gentlemen that choose to smoke tobacco or cigarettes or cigars in this case, they have to have a place. It's...the taxes that you're putting on cigarettes and tobacco are pushing it underground. And they're going to find a place to do it somewhere. You're overtaxing cigarettes in my opinion. And it's causing a lot more issues on the other side of the coin than you're gaining from taxing it that high. But in this case, give them a place, give them a place to go. Give them a place to socialize. It is a social thing. You're not going to stop them from smoking. So give them a place to go, tax it appropriately to where you can...the government can gain something from it. And anyway, that's my piece. [LB118]

SENATOR COASH: Thank you, Ms. Brown. Ms. Brown, before you leave, would state your name for the record. I don't know if we got that. [LB118]

JENISE BROWN: Jenise Brown. Thank you. [LB118]

SENATOR COASH: Thank you. Is there any questions from the committee? You get up so fast. (Laughter) Doesn't matter, nobody has any questions. [LB118]

JENISE BROWN: My red light was up. [LB118]

SENATOR COASH: We appreciate your time. We'll take the next testifier in support. Welcome. [LB118]

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CHARLES KLINE: Good afternoon. My name is Charles Kline, K-I-I-n-e. From some of the previous testimonies, I guess I really wanted to comment. I spent a little more than 20 years of my life dedicated to the tobacco industry. I'm a resident of Omaha. I have three tobacco licenses. I have a manufacturers license for tobacco, cigars particularly. And I have two liquor licenses. One of those liquor licenses is a cigar bar, Havana Garage, and another does not have cigar smoking. So, Senator Riepe, when you had mentioned earlier about would there be...I believe you did, about other bars or this increasing proliferation of cigar smoking, that doesn't happen. Those locations that can have cigar smoking available benefit. Those locations that choose not to have cigar smoking or have the cigar bar license also benefit from not. You know, when we talk about employment, I employ a little over 20 people throughout my businesses. We pay a tremendous amount of tobacco tax, state sales tax, and liquor tax. And from a standpoint of socialization, it is a tremendous amount of socialization that gets involved. As Mr. Boyum had indicated, the range of customers that you see and from all professions of life is tremendous. I'm located down in the Old Market down in Omaha. And the number of people that we get from around the country that come in and indicate how refreshing this is from maybe some of the other cities that they're from is tremendous. And it's nice to hear. It's nice to hear. Two thousand nine, when they proposed the current cigar bar license, we were, as a state, we were on the map. You know, we were forward-thinking. And other states around the country have since reacted to that and have allowed for this exemption to exist. And I guess that's what I wanted to say was really from a personal standpoint the amount of hours and dedication that we put forward and the amount of employment and people and socialization. Thank you. [LB118]

SENATOR COASH: Thank you, Mr. Kline. Senator Hughes, you have a question. [LB118]

SENATOR HUGHES: Thank you, Mr. Chairman. In your cigar bar, what's the age limit?

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[LB118]

CHARLES KLINE: 21. [LB118]

SENATOR HUGHES: Twenty-one to buy a cigar. [LB118]

CHARLES KLINE: Correct. [LB118]

SENATOR HUGHES: It's not 18 as it is in cigarettes? [LB118]

CHARLES KLINE: They certainly can. But we certainly discourage it. It has been discouraged. We don't allow it. [LB118]

SENATOR HUGHES: But they could buy a cigar at 18? [LB118]

CHARLES KLINE: Legally, yes, yeah. Legally they could, yes. [LB118]

SENATOR HUGHES: Okay. Just for my own information, give me an average age your clientele. [LB118]

CHARLES KLINE: Our average is probably anywhere between 35 and 40 years old. [LB118]

SENATOR HUGHES: Thank you. [LB118]

SENATOR COASH: Thank you, Senator Hughes. Seeing any other questions, none, thank you, Mr. Kline, for coming down. [LB118]

CHARLES KLINE: Thank you. Appreciate it. [LB118]

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SENATOR COASH: We'll take the next testifier in support of LB118. Last call for any supporters of LB118. Seeing none, we will move on to testimony in opposition of LB118. Welcome. [LB118]

DAVID HOLMQUIST: (Exhibit _) Thank you. Good afternoon, Senators. Thank you for the opportunity to testify. My name is David Holmquist, D-a-v-i-d H-o-l-m-q-u-i-s-t. I am a registered lobbyist. I represent the American Cancer Society Cancer Action Network. Just some brief comments this afternoon. The Nebraska Clean Indoor Air Act that's been referenced over and over has created a much safer indoor environment for employees and patrons of businesses including bars and restaurants as well as those employed in or visiting businesses and governmental entities across Nebraska. The Clean Indoor Air Act remains extraordinarily popular with the general public. In polling conducted December 9, 2014, through December 11, 2014, we found that a full 86 percent of voters polled favor the act and this support crosses the ideological spectrum from very conservative to liberal. As you know, the Supreme Court in Nebraska has found the exception for cigar bars as implemented by LB355 and passed in 2009 unconstitutional. The findings were consistent with an opinion that we requested from former Chief Justice of the Nebraska Supreme Court Norman Krivosha in 2009. And I submitted this testimony electronically on Friday. And his letter outlining his opinion is included. That was included at the time that LB355 was debated and ignored by various people. I'm not a lawyer. I'm not trying to defend or oppose what the Supreme Court has said other than to talk a little bit about the health consequences that can happen with cigars. They're still tobacco. They're still dangerous to people's health. Many people view cigar smoking as more sophisticated and less dangerous than cigarette smoking yet one large cigar can contain as much tobacco as a single pack of cigarette and the secondhand smoke it gives off, which other breathe, can fill a room for hours without the sophisticated ventilation systems that have been spoken about here. Cigar smoking increases the risk of death from many cancers including lung, lip, tongue, mouth, throat, esophagus, and voice box or the larynx. Studies have shown that regular cigar smokers are four to ten times more likely to die from cancers of the mouth, larynx, and

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esophagus than nonsmokers. For those who inhale, cigar smoking appears to be linked to death from cancer of the pancreas and bladder. The language in LB118 states that cigars and pipe tobacco have different characteristics than other forms of cigarettes such as...forms of tobacco such as cigarettes. However, while the characteristics might seem different, the dangers are very much real and very similar. So in short, cigars are not a safe alternative to cigarettes. And in light of the Supreme Court findings and the dangers posed by cigar smoking, we simply as an organization urge the General Affairs Committee not to advance LB118 out of committee. That's my testimony and I'd entertain questions if you have any. [LB118]

SENATOR COASH: Thank you, Mr. Holmquist. We'll see if we have any questions for you. Appreciate your testimony. [LB118]

DAVID HOLMQUIST: Thank you. [LB118]

SENATOR COASH: We'll take the next testifier in opposition. [LB118]

AMBER PARKER: Hello, my name is Amber--hello again, I should say--Parker, A-m-b-e-r P-a-r-k-e-r. So as I was reading this bill, I really don't think the question is whether somebody has the right to smoke or not to smoke but how LB118, and correct me if I'm wrong, Senator, how it is written it seems to me that it trumps everybody else's rights. I've started thinking, if we're within a little mall area and let's say you have a little grooming place here, you may have a hair salon here, how much is that secondhand smoke going to go into those other businesses? Then as I was reading this bill I also considered on this side, what about those in these businesses and the connections that may be asthmatic, have worked there maybe ten years, two years and now because of LB118 may have to change where they would work. I do not pretend to be an expert on how the "humididor," if I'm pronouncing that correctly, works. The other thing I looked at this is knowing what the Nebraska, our constitution...not constitution, excuse me, but what the Nebraska Clean Indoor Air Act, that what they had done and exempted the

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cigars. They had seen the danger in the past. That danger as the gentleman before me had testified saying that danger still is present to this day. So with this said, I am greatly concerned with Senator Larson on proposing, which could open a door through this proposed legislation to disrespect the Nebraska Clean Indoor Air Act. We know secondhand smoke is greatly a danger. And I just...I don't know the studies and I'm here to bluntly say that. But I am greatly concerned in these areas and how this may affect the other businesses in the area, not the cigar shops themselves. So as I read LB118, I am definitely opposed to it because of these great concerns and I believe there should be further study in how much the "humidor" is truly pulling out that cigar smoke and how many cigarette smokers may take and try to hide. Can you separate the difference between cigarette smoke and that and know that the Nebraska Clean Indoor Air Act is actually being respected in these establishments. And as state senators, this is a job any time you look at legislation to make sure that the law is upheld and the safety of the public. [LB118]

SENATOR COASH: All right. Thank you, Ms. Parker. See if we have any questions. I will just say for the record, the humidor has nothing to do with air. [LB118]

AMBER PARKER: Is it? Okay. [LB118]

SENATOR COASH: It has to do with preserving the cigars. [LB118]

AMBER PARKER: Well, I'm a watchful citizen. I'm being honest. I read this. I saw it because I have dealt with people that have...their face has swelled up when cigar smoke. If someone was at a game and smoking a cigar or with someone who would vomit around cigarettes. And those are serious things and we need to take those into consideration. [LB118]

SENATOR COASH: Thank you for your testimony. We'll see if we have any questions for you. Seeing none, thanks for coming. [LB118]

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AMBER PARKER: Thank you. [LB118]

SENATOR COASH: (Exhibits ___) We'll go to the next testifier in opposition. Okay. Is there anyone here to testify in a neutral capacity. Mr. Rupe, come on up. While he's coming up, I'm going to read into record a couple letters that we did receive: one from Vicki Duey, the president of Friends of Public Health; another letter in opposition from Brian Krannawitter with the American Heart Association; one from Judy Halstead, the health director of the city of Lincoln; and from Norman Krivosha. Thanks, Hobie. [LB118]

HOBERT RUPE: Hi. My name is Hobert Rupe, executive director of the Nebraska Liquor Control Commission testifying on behalf neutral. As the agency which was tasked with the implementation of the previous bill, I can say that during the time frame I think the most we ever had was 11. I think at the time of the Supreme Court decision there were ten active CB license endorsements and there were two pending at the time. So the mad rush that we feared back in 2009 never occurred. Primarily I believe that was because the bill at the time was set out to...by having a humidor, which I learned more about those when we were licensing. These items, you know, cost upwards of \$15,000 plus an additional investment. So the fear back in 2009 I believe was that we would have a mad rush. We didn't have a whole bunch of these licenses. I think only one license has had one during the time and decided to go out of business. We had had no really regulatory problems. The only regulatory hiccup we came into at the end was three of the bars didn't file their annual reports. Maybe that was because the Supreme Court had already rendered their decision and they didn't go to their accountants on it. But there was no regulatory problems as a regulator on it. And as being the normal policy wonk, I would as that while you're looking at this bill, if you could consider on page 3, line 2, striking the words: "in triplicate." That's an old phrase. We don't accept license applications in triplicate. We are rapidly going to a paperless licensing system. The last great elephant to bring in the actual license, almost every other additional license is electronic. And so if you could strike that just from a policy so somebody

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doesn't say, why do you not have three copies of it because as of right now when we receive an application of any type, we scan it in and handle it all electronically anyway by sending it out to the other state agencies and other governmental agencies. So I figure while you're opening up the engine on that one, at least you can fix that spark plug for us. It'd be great. I'd be happy to answer any questions regarding this issue. [LB118]

SENATOR COASH: Thank you, Hobie. I just wanted to make sure I heard you right. You haven't had any regulatory problem since the enactment of this? [LB118]

HOBERT RUPE: The only things that were brought to me by staff was after the Supreme Court decision, three of the cigar bars did not file their annual reports as required under the act. I'm not sure. You know, I'm sure they have a reason why they thought they didn't have to, because the law had been struck down. [LB118]

SENATOR COASH: Right. [LB118]

HOBERT RUPE: But that was the only thing we had. [LB118]

SENATOR COASH: Hobie, I think I'm the only one on this committee that was here on this committee when we passed the initial exemption. And there was testimony that there would be a hundred of these pop up overnight. And this would be the end around for the beverage bar industry to continue to allow smoking in their bars and that passing this exemption would just open the floodgates for that. Did that happen? [LB118]

HOBERT RUPE: No. The fear was people were concerned that somebody would crack open a box of Swisher Sweets on the end of the bar and say, hey, I'm a cigar bar now and allow everything in. That didn't happen. In the earlier bill and this bill as well, both had sort of up-front costs. There's a \$1,000 application fee that's nonrefundable for the original application. There was also the requirement that there be a humidor, a walk-in

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humidor, which through rules and regulations we were able to further define and plus they're...which are not cheap. As I said, those are in excess of \$15,000 for a cheap one is the way I understand it. So because of that up-front cost, I think that served sort of as a mechanism to make sure that only the people who are actually going to go underneath the actual intent of the previous bill went forward. [LB118]

SENATOR COASH: Okay. And how many did you say? [LB118]

HOBERT RUPE: At the time of the Supreme Court decision came down, there were ten active licenses: six in Omaha, two in Lincoln, one in South Sioux City, and one in Grand Island. And there were two pending: one for Omaha and one for Lincoln. [LB118]

SENATOR COASH: Okay. Where do we sit...I just want to get this on the record because I've had questions that I haven't been able to answer. Where do we sit with regard to the current licenses that these entities hold, in regards to the, you know, when they're issued, when they expire, and how that intersects with the Supreme Court's decision? [LB118]

HOBERT RUPE: Well, what happened is the Supreme Court decision came down I believe in August. As to get a cigar bar endorsement, you have to be a valid holder of a Class C liquor license. Those have to be renewed by October 31 of every year. Given how there was a request for reconsideration that was bleeding over into October, in consultation with the Attorney General's Office, we allow them to renew for the upcoming year because, you know, nobody knows when the court is going to make a decision. At that time, we said that they would be receiving light notification once the Supreme Court did come down with a decision. In this case, the Supreme Court did what they called, issued a mandate back to the district court on December 31. We received notice on January 2. On that day, I sent out letters to all cigar bars saying, you know, here's what had happened. And I sent out corrected liquor licenses basically just taking the cigar bar endorsement off. Primarily we did that because the cigar bars, as

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you were testified earlier, were not parties to the litigation. I wanted to make sure they knew what was happening. From our perspective, it was very much an administrative action. We send out corrective licenses if somebody changes their dimensions or drops a partner or something like that. We send out replacement licenses sort of as a matter of business. And that's the way we looked at it. From a legal perspective, you know, we don't enforce it. So you'd have to talk with Health and Human Services and the other agencies. But at that point in time when, especially as of I think the following Monday when the district court entered the mandate into its record, the ability of the commission to issue those cigar bars was null and void and, therefore, the exception did not exist. [LB118]

SENATOR COASH: Thank you, Mr. Rupe. Any questions for our commissioner? Seeing none, thanks for your testimony. [LB118]

HOBERT RUPE: Thank you. [LB118]

SENATOR COASH: Is there any other testifiers in a neutral capacity? Seeing none, Senator Larson to close. [LB118]

SENATOR LARSON: Thank you, Senator Coash, members of the General Affairs Committee. I'll be quick. Just to touch on a few highlights, one thing that we have to realize is you choose to go into a cigar bar. And employees choose to work in that cigar bar. The secondhand smoke is, as we heard testimony from the waitress, negligible. And she chooses to work there. There's no employee there that doesn't know they are subjecting themselves to. Another thing that I'd like to impress upon all of you is this does not change the Clean Indoor Air Act. There still will not be cigarettes allowed in any bars. There still will not be cigarettes allowed in these cigar bars. This is merely explaining the Legislature's intent more clearly than what LB355 did. We're not trying to repeal the Clean Indoor Air Act. There's been a status quo for the last six years. LB118 would keep status quo. This is an important issue as we've heard in term of it's time

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sensitive. And I would hope that working with legal counsel, with the possible strengthening changes to make it even better to withstand a court challenge, we can make those changes quickly through a committee amendment and move this to the floor. So I'd appreciate that. Thank you. [LB118]

SENATOR COASH: Thank you, Senator Larson. Any final questions for the Chairman? Seeing none, we'll close the hearing on LB118 and let the room clear out and then we'll start the next hearing on Senator Stinner's bill, LB241. [LB118]

SENATOR LARSON: Senator Stinner. Excuse me, we're starting LB241 so if we could have a little bit of quiet. Senator Stinner is going to... [LB241]

SENATOR STINNER: This should go a lot easier, right? [LB241]

SENATOR LARSON: Senator Stinner, welcome to General Affairs Committee. [LB241]

SENATOR STINNER: (Exhibit 1) Thank you, Senator Larson, Chairman, members of the General Affairs Committee. For the record, my name is John Stinner, J-o-h-n S-t-i-n-n-e-r. It is my pleasure to introduce a bill whose...which originated in my district. The intent of the bill is to eliminate an unnecessary requirement of law. And the bill saves the cost of making duplicate filings by cemeteries that have their own record systems. In summary, LB241 repeals a requirement to record a deed at the county register of deeds when issued by a city of the primary class, a city of the first class, a city or village, or a cemetery association formed by a city or village. It should be noted that citizens may still file a deed if they so desire. Attached to this testimony you will find a complete statement by Jean Bauer, Register of Deeds of Scotts Bluff County, which will provide a background for the bill and reasons to support LB241. Just to briefly go through it, LB241 she states would allow cemeteries within the state of Nebraska to bypass the register of deeds office in issuing cemetery deeds or certificates. Now just as a side note, it costs about...it costs \$10 in Scottsbluff--I think that's a fairly consistent

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fee throughout the state--to register with the deeds. There is no deed that's issued to you and there's no title insurance. So I'm advised...she further states, I'm advised most such cemeteries have excellent records on both who owns the lot and who is buried in the lot, which she does not keep. The register of deeds is only if you bought four lots for your family, that's what would show up at the register of deeds. The cemetery keeps records of who's actually the inmates are. Jean goes on to state, if cemeteries do not have a recordkeeping system of their own, LB241 would allow cemeteries to continue to record these deeds or certificates in the same way they have done for years. In addition, for those cemeteries who choose to bypass the register of deeds, the individuals receiving the deed could still bring the original deed into the register of deeds office for filing, pay the \$10 fee, and they will file it. This bill has been taken for review to the Nebraska Association of County Officials and has this organization's support. It's my understanding that a representative of NACO will follow me and is in position to answer more detailed questions for you. Thank you for this opportunity to testify. [LB241]

SENATOR LARSON: Thank you, Senator Stinner. Does the committee have any questions? Good luck. [LB241]

SENATOR STINNER: Thank you. [LB241]

SENATOR LARSON: Mr. Dix. [LB241]

LARRY DIX: Good afternoon, Senator Larson, members of the committee. My name is Larry Dix; last name is spelled D-i-x. I'm the executive director of Nebraska Association of County Officials appearing today in support of LB241. Senator Stinner, first of all we want to thank him for bringing this bill forward. As he stated, it was brought to our attention by the Scotts Bluff County Register of Deeds. And when we looked into it we immediately contacted the League of Municipalities, said we want to make sure you guys are good with this, that there isn't any problem. Certainly I'm not here to...if they are going to differ from this, I'm sure they will be up here and make that statement. But

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as of this morning when I visited with Mr. Krumland from the League of Municipalities, they said they're absolutely fine with this bill. They have no problems with it. Senator Stinner covered pretty much exactly what's going on. This is a filing that really doesn't have a lot of need anymore in the register of deeds. As he noted, it'll say you bought four lots. It really doesn't tell you who is in them. So it's really something that probably has been on the books for years and years and years. And you know, maybe a hundred or so years ago, somebody had a good idea, but we think now it's probably time to take it off. [LB241]

SENATOR LARSON: Sounds good. Thank you, Mr. Dix. [LB241]

LARRY DIX: You're welcome. [LB241]

SENATOR LARSON: Does the committee have any questions? Senator Schilz. [LB241]

SENATOR SCHILZ: Thank you. Mr. Dix, thanks for coming in today. I was just wondering as I looked here and maybe it's some...I see the primary class, first class, village. Metropolitan cities would not be included. Is there a reason for that? [LB241]

LARRY DIX: None that I'm aware of, but then that sort of gets into the city side of it that I'm not as familiar with. [LB241]

SENATOR SCHILZ: I see. [LB241]

LARRY DIX: We'll look into it. [LB241]

SENATOR SCHILZ: Yeah, and I see somebody else that maybe knows what's going on. Thank you. [LB241]

SENATOR LARSON: Maybe Senator Stinner can clear it up in his closing. All right.

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Thank you, Mr. Dix. Any more? Here we go. Here's the cities. [LB241]

SENATOR SCHILZ: There we go. I was one too soon. [LB241]

GARY KRUMLAND: Senator Larson, members of the committee, my name is Gary Krumland; it's G-a-r-y K-r-u-m-l-a-n-d, with the League of Nebraska Municipalities. And as Mr. Dix said, he reviewed this with us. We have no problems. I just came up here to respond to your question. And some of you know this. There are five classes of municipalities in Nebraska. Metropolitan are those above 300,000 which is just Omaha. Primary are between 100,000 and 300,000 and Lincoln is the only one. First-class cities are those with populations between 5,000 and 100,000. Second-class are 800 to 5,000. And villages are below 800. And each of them have their own set of statutes on authorizing them to do that. The metropolitan city statutes didn't have this language in it so there was no need to remove it. The rest of them did. I'd be happy to answer any questions. [LB241]

SENATOR LARSON: Thank you, Mr. Krumland. Are there any questions from the committee? Looks like there's none. Thank you. Any more proponents on LB241? Are there any opponents to LB241? Were you looking to testify in opposition, Speaker Hadley? (Laughter) [LB241]

SENATOR HADLEY: (Inaudible). [LB241]

SENATOR LARSON: Anybody in a neutral capacity on LB241? Senator Stinner, would you like to close? [LB241]

SENATOR STINNER: They told me I can waive closing so I will. Thank you. [LB241]

SENATOR LARSON: Just wave. (Laughter) Thank you, Senator Stinner. With that, that will close the hearing on LB241. And we will move on to LB179 and Senator Brasch.

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Welcome to the General Affairs Committee, Senator Brasch. [LB241]

SENATOR BRASCH: Thank you, Chairman Larson. And good afternoon, members of the General Affairs Committee. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h and I represent the 16th District in the Nebraska Legislature. I am here to introduce LB179 which I have brought to you at the request of electrical instructors at Northeast Community College to provide a requirement for continuing education hours for apprentice electricians. Before I begin, I want to point out one small word change that will be made. On page 4, line 3, the word "reduction" should be "increase" to ensure that failure to renewal reads as a penalty. Currently, apprentice electricians must register with the Nebraska State Electrical Division at the beginning of their apprenticeship. They must complete four years of work experience and a minimum of 8,000 hours under a licensed electrician. All electricians are required to renew their registration or license every two years. After they have fulfilled these requirements, they apply with the division to take the journeyman electrical exam. If the applicant passes the exam. They are issued a journeyman license. After holding the journeyman's license for a year in good standing, they're allowed to take the electrical contractor's examination. Many journeyman never move on to the electrical contractor examination, which is generally taken by business owners or by those who are interested in obtaining electrical permits. For many electricians, becoming a journeyman is the final step in their vocational advancement. As mentioned, the NSED requires apprentices to work under supervision for four years and then allows them to test for the journeyman's license. An essential part of this test is understanding the national electrical code book, which is a regionally adopted standard for electricians. Typically and unfortunately, apprentices who sit for the exam do so with little exposure to the code book. This puts the apprentice in a position to fail the exam one or more times. If they have a knowledge of basic electricity and the code book, they are in a position to more readily pass an exam. Randy Anderson of the Nebraska State Electrical Division will address the content and structure of the exam at further length following my introduction. Records show that between July 1, 2007, and July 1, 2012, the Nebraska State Electrical Division administered 2,372 exams with only 1,121

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passing the exam for an average of 47.67 percent over five years. Basically, over half failed the exam. The testifiers behind me will tell you that they see a higher pass rate among students that finish community college or a journeyman apprenticeship training class before sitting for the exam, which gives the apprentice exposure to the code book. LB179 adds a requirement to 81-2113 that an electrical apprentice present documentary evidence of successful completion of continuing education courses to renew their registration and adds a penalty for failure to fulfill the requirement. Apprentice electricians would be required to fulfill the same continuing education courses currently taken by journeyman and electrical contractors to renew their licenses. The requirement consists of 12 contact hours of continuing education containing a minimum of six contact hours studying the code book. The other hours can be completed in other subject areas or additional hours studying the code book. Considering that the code book must adapt itself to the numerous changes in electrical technology and the industry itself, this requirement will grant a benefit of exposure to the study of the code book that may not otherwise occur for an apprentice electrician. I will briefly note that this legislation carries no fiscal impact to the state. The out-of-pocket cost for the apprentice electrician would be slight. Calculating a 2,000 hour work year would translate to only about 4.5 cents to 6 cents per hour in additional cost to the apprentice or a total of \$92 up to \$120 a year. With that said, passing the exam would bring about a career advancement that typically provides a means for financial gain. As I conclude, I want to thank you for your time, and I believe Randy Anderson of the Nebraska State Electrical Division behind me today will be happy to answer any of your questions from his division's perspective after he has shared his testimony with this committee. Again, I do want to thank you for your time and I am happy to answer any questions. [LB179]

SENATOR LARSON: Senator Coash. [LB179]

SENATOR COASH: Thank you, Senator Larson. Senator Brasch, as I look at the bill, I just want to ask a question. If you can't answer it, I'm sure somebody else behind you

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will. But in the language of your bill, you do not give a number of hours. It references the completion of requisite hours under a different section which I don't have. Do you know how many hours that is we're adding? [LB179]

SENATOR BRASCH: I would like that to be answered following me, please. [LB179]

SENATOR COASH: Okay. I'm sure somebody will answer that then. [LB179]

SENATOR BRASCH: Yes. [LB179]

SENATOR COASH: Thanks. That's all the questions I have. [LB179]

SENATOR LARSON: Thank you, Senator Brasch. Will you be staying for closing?
[LB179]

SENATOR BRASCH: I will stay. [LB179]

SENATOR LARSON: (Exhibit _) We'll see. Do we have any supporters, proponents of LB179? And while we're waiting, we did receive one letter of support from Dan Frohberg, that he would like that read into the record. How are you? [LB179]

RANDY ANDERSON: (Exhibit _) Good. Senator Larson, members of the committee, I'm Randy Anderson, R-a-n-d-y A-n-d-e-r-s-o-n. I'm the executive director of the Nebraska State Electrical Division. Currently, there are about 8,999 licensed electricians in Nebraska holding 11,000 licenses because some guys are dual. They're might have a journeyman or an electrical contractor. Of those as of today, 2,579 are apprentice electricians. And to kind of give a nutshell of what we do, Senator Brasch touched on it, they work under electricians a minimum of four years, 8,000 hours, before they can sit for a journeyman exam. As it's hard to get an exact number of who's educated or not because people travel to take the exam and by law we have to give the exam in six

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locations across the state twice a year. So it moves Lincoln to Omaha, Norfolk, Grand Island, North Platte, and Gering that way when the law went into effect, they told our division if you're going to have a law requiring 12 hours of...and to answer Senator Coash, it's 12 hours in two years, you're going to do that. And the way we've accomplished that is we give the exams in these locations six times a year. We now just rent the building for the whole day and we provide four hours of training prior to the exam. And then people for the exam are there in the afternoon. It just saved us travel. And so we basically provide the 48 hours a year ourselves. Or you could go get it from the state. But we also have a hundred providers across the state doing it. We're in a multistate group that's called NERA; it's the National Electrical Reciprocal Alliance. And the idea of that was to qualified electricians that could travel. So when the rush was going on in North Dakota, a lot of our guys reciprocate to states like ours. And there are 17 in that group which is Alaska, Arkansas, Colorado, Idaho, Iowa, Minnesota, Montana, New Hampshire, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming. They have programs similar to ours. And then state statute, it allows us to trade licenses. So a person from South Dakota who has passed South Dakota's exam can come to Nebraska, waive the exam and become a journeyman to make ease of journeyman to travel. Right now with all the projects we have in Nebraska we're seeing an inrush. From what I budgeted expecting, we're already at 80 percent of the people we thought would come into Nebraska as an apprentice because of the work that's coming up in Kimball and Omaha. And in that group, that NERA, we set up standards that you're going to be four years and 8,000 hours...now Idaho is 16,000 hours, some of the states have JATC programs where if you didn't go through it you have to go longer. Those states require 576 hours in five years. That comes up to 115 hours. The renewal that Senator Brasch referred to of renewing your license is to show continued education and most states are from 12 to 18 hours in a two-year license period. So Nebraska is 6 hours per year and some are as high as 18. But if you have an electrician say in western Nebraska that wires houses all the time, when he comes to take a journeyman exam he needs to know how to do commercial garages, hospitals. That's where the study of the code comes in. And we review every one of these

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continuing ed classes. It isn't something where somebody just makes some money. They send them to us. We review them and--oh, I'm sorry--and make sure they're up to standard. [LB179]

SENATOR LARSON: Thank you, Mr. Anderson. Are there any questions from the committee? Senator Coash. [LB179]

SENATOR COASH: Thank you, Mr. Anderson. So this bill tacks on 12 more hours? [LB179]

RANDY ANDERSON: No. [LB179]

SENATOR COASH: No. [LB179]

RANDY ANDERSON: No. At this point it said licensed electricians. Apprentices are registrants. So I don't know if it was an oversight in '76 when it was written, but it never required the people coming up through the ranks to have it, only journeyman, residential wiremen, fire alarm installers to renew. So it's still exactly the same hours everybody else has. It's just taking it out to where registrants are included in the six hours per year to renew. And the reason for the delay is if you're an electrician and you don't renew, our licenses expire every two years: December 31 of even-numbered years. If you're working out of state or you're retired, you have 90 days to renew so it stays open until April 1, giving you the chance to get that done. Let's say you're an apprentice and you don't get these hours, heck, I'll just wait and I'll renew April 1. Well, you're working illegally. We'd have to catch you to start with. But the idea of taking three months off the first two years and three months the second is why the bill says up to six months, so let's say I'm an apprentice and I just say I'm not going to renew it. I'll renew it April 1. It's fine. Now you're going to work three months longer to get your four years and 8,000 hours because we're in another group that we guarantee every electrician that takes the test here will meet this requirement. And we don't want to lose the right for our

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electricians to travel out of state nor hinder others from coming here when we need help. [LB179]

SENATOR COASH: So I just want to be clear, is LB179 adding any more training requirements? [LB179]

RANDY ANDERSON: Only to apprentices, apprentice electricians were not included in the group. [LB179]

SENATOR COASH: Okay. So an apprentice sitting here today has to do X amount of hours. If the bill passes, same amount plus 12? [LB179]

RANDY ANDERSON: Apprentice does zero right now. Apprentice was a registrant. He was totally left out. [LB179]

SENATOR COASH: Okay. [LB179]

RANDY ANDERSON: This brings the apprentice in to get him in the code book because maybe you just have him pull wire all day long and he comes in after four years and, sad to say, we had one gentleman take the exam 19 times at \$60. When you add a little bit of training to that...and we can see as high as an 18 percent difference if we get in a town where there's a code class and they come and take our exam or somebody graduates from the JATC program. We definitely see a difference in the...up to as high as 18 percent better because of the training. And like I said, we don't allow training that's just, hey, pay me \$40 and I'll give you a certificate. We monitor the classes to make sure they're quality. [LB179]

SENATOR COASH: Okay. Thank you. [LB179]

SENATOR LARSON: Senator Riepe. [LB179]

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SENATOR RIEPE: Senator Larson, thank you. Are the same people that set the standards the people that are benefiting from having higher standards? [LB179]

RANDY ANDERSON: Do you mean because the instructors...? [LB179]

SENATOR RIEPE: Well, not the instructors, just the industry as such that there's a tendency that many organizations will set higher standards will then results in great demand, if you will, in relationship to the supply. [LB179]

RANDY ANDERSON: I can tell you that the Electrical Division didn't bring this forward, but we supported it. It was from the industry but it was from a community college instructor but he did it privately as I recall. He was doing it...he also volunteers. I can tell you the person that asked to do this gives his time freely to a certain wiring association in Nebraska also. [LB179]

SENATOR RIEPE: I wasn't as much concerned about the continuing education as I was about the foundation, the general standards that are set, who those are set by. If those are set by the electrical group, then they have an incentive to not want to ever lower those standards but constantly raise those standards making it more and more difficult to access to become one of you. [LB179]

RANDY ANDERSON: Right, and if I'm understanding it right, we as the regulator make...this does not gain anything. In fact, I would expect to see less revenue from giving exams. But this will take four years down the road to see anything we do today to see the people get through it. But, yes, I've talked to several electrical contractors that have businesses that actually make their apprentices take it now even though it's not a requirement. There are some that want their guys to have the knowledge of...the code changes every three years to keep up with technology. So you really do need to be in there looking at what's going on. That's part of renewal, keep you in it so you're fresh.

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[LB179]

SENATOR RIEPE: I'm always looking for checks and balances. So thank you. [LB179]

RANDY ANDERSON: You bet. [LB179]

SENATOR LARSON: Any other questions of the committee? And I think it's been made fairly clear, do journeyman or those that go higher, do they have to take CLEs to continue to keep that license? [LB179]

RANDY ANDERSON: Everybody but apprentices has to do continued ed in that two-year period. [LB179]

SENATOR LARSON: Okay. [LB179]

RANDY ANDERSON: It's always set up in your license period, six hours. You could take them all at one time, take 12. You could take them two. There are on-line. [LB179]

SENATOR LARSON: I just wanted to double...you know, make sure that the committee understood. So everybody above apprentice already is taking these CLEs. And for the record, LB179 is just putting kind of that CLE requirement to the apprentice in an attempt to help them not only pass the test but make sure they understand what's happening with the code. [LB179]

RANDY ANDERSON: Exactly, exactly. [LB179]

SENATOR LARSON: Thank you. Any other questions? Thank you, Mr. Anderson. [LB179]

RANDY ANDERSON: Thank you. [LB179]

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ROBERT MORRIS: Good afternoon. My name is Robert Morris, R-o-b-e-r-t M-o-r-r-i-s. I'm executive director of the Nebraska Iowa Electrical Council and we're a nonprofit association in the industry. And we do provide a great deal of continuing education. I'm here to testify in favor of LB179. The National Electrical Code is a very complicated piece of work. It evolves over time as new changes are made in the industry. I have a master's degree in physics and I look at the code book and I'm glad I don't have to use that on a day-to-day basis. It takes a lot of work to master that. The purpose of the code of course is ultimately safety: safety for installer when he or she is doing the work, putting the equipment in, and then ultimately safety for the public when the electrician leaves and we expect everything to be inspected and work very well, work perfectly, and continue to make any changes until we reach that level. So requiring continuing education for the apprentices puts them in a better position when they take the exam. And they will be going to classes with veterans and they'll get some benefit from that, being around people who talk about the code on a day-to-day basis. So we...I don't think I need to repeat some of the other testimony that Randy said. Senator, you talked about the industry improving the standards to maybe...on a self-serving basis. It's very difficult to get a change into the book. The suggested changes in the code come from all over the industry. And it takes committee after committee after committee that hash these things out before they actually go into the book. And it could be an apprentice electrician from North Platte that suggest a change that could ultimately get in the code book. It's not just... [LB179]

SENATOR RIEPE: Sounds like you have your own Legislature. [LB179]

ROBERT MORRIS: Not a bad analogy, yeah. Okay. Thank you. [LB179]

SENATOR LARSON: Thank you, Mr. Morris. Are there any questions from the committee? Seeing none, thank you, Mr. Morris. Any more supporters? Welcome. [LB179]

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ROY LAMB: Senator Larson and committee, my name is Roy Lamb. I'm the training coordinator... [LB179]

SENATOR LARSON: Can you spell your name for the record, please? [LB179]

ROY LAMB: Yeah, R-o-y L-a-m-b. I am the training coordinator for the Lincoln Electrical JATC which is a collaboration of the International Brotherhood of Electrical Workers Local 265 and the National Electrical Contractors Association, Nebraska Chapter. So I understand about apprentice training. That is what we do. And as Mr. Morris and Mr. Anderson have alluded to, not only is it beneficial for these apprentices to get this training to help them with this exam but as Mr. Morris, safety is what it's all about. So the purpose of the code is it's just a practical safeguarding of persons and property from hazards arising from the use of electricity. So safety is at the heart of that. So giving them and requiring them to have that continuing education is important. Now for us, our apprentices are already getting that. We're..they're, through a five-year apprenticeship program, they're getting over 900 hours of classroom instruction, over 8,000 hours of on-the-job training. So I understand that. But there are a lot of those out there that are missing that, that aren't getting that education to help them be safe. Senator Riepe, you talked about the benefits. The employer benefits. The customers benefit. The industry benefits. But most of all, the apprentice benefits. When we do...and we do safety training, electrical safety training for them. And the most important thing I really impress upon apprentices and journeyman that they go home every night to their families. And there are...it's...for those of you and probably a lot of you have done electrical work in your homes, but to understand, you can't see it. It's just...and it'll jump and get you. So there's just...to really impress the importance of safety, but, yeah, they do need to know the code. But that's what that code is about. It's...I'm trying to think if I got...that's really...that's what I got. It is an important issue. And I'd like to again, express my support of this bill. [LB179]

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SENATOR LARSON: Thank you, Mr. Lamb. Do we have any questions? Senator Hansen. [LB179]

SENATOR HANSEN: Thank you. Mr. Lamb, could you tell us what your current class passage rate is of the current exam? [LB179]

ROY LAMB: For us? [LB179]

SENATOR HANSEN: The people you train (inaudible). [LB179]

ROY LAMB: One hundred percent. Our fifth-year instructor...and Randy can attest to this, we...they're well prepared to take this exam. Our instructor quizzes them throughout the year. And then up to about, you know, probably four to six weeks before they sit and take the exam--they do it in May--that's all they do, just hammers it home. So yeah, we have a success rate. But that's what we're after. We want to make sure that those guys are successful. [LB179]

SENATOR HANSEN: Great. Thank you, Mr. Lamb. [LB179]

SENATOR LARSON: I would like to say I live in a house that was build in 1962. And as I was replacing the outlets, making...updating it, you realize that sometimes you think you turned off an outlet but it's actually in the other room because it connects to the backside of the bedroom. And, yeah, you learn once real quick when that thing is hot. (Laugh) Shocking. But I appreciate it. And thank you for your testimony on LB179. [LB179]

ROY LAMB: Thank you. [LB179]

SENATOR LARSON: Thank you. Welcome to the General Affairs Committee. [LB179]

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RODNEY VLCEK: Good late afternoon, Senator Larson and members of the General Affairs Committee. Nice to see you. My name is Rodney D. Vlcek spelled R-o-d-n-e-y D. V-l-c-e-k, and I president of the Nebraska State AFL-CIO. And I was glad to hear Mr. Lamb come up from the construction and building trades because any time we can do anything to (inaudible) the safety in our building construction trades, we are absolutely for it. I want to thank Senator Brasch for bringing this up. As you said, when it comes to outlets and power breakers, you'll get a wake-up call. You will get a very good wake-up call if you're not sure what you're doing. But again, we are adamantly for this, for the education and for the safety. And as we say, when our members go to work, we want them to go home at night. So I'll be happy to answer any questions you may have. Otherwise, thank you. [LB179]

SENATOR LARSON: Any questions from the committee for Mr. Vlcek? Thank you for your time. [LB179]

RODNEY VLCEK: Thank you. [LB179]

SENATOR LARSON: Any other supporters of LB179? All right, are there any opponents to LB179? Is there any neutral testimony to LB179? With that, would Senator Brasch like to close? [LB179]

SENATOR BRASCH: I want to thank you for listening to those testifying behind me today and stress that this is for the protection of many journeymen who do not have any training on the code book for their safety and the investment again is just pennies on their part. Many employers do cover that investment. And that investment does lead to a greater opportunity for them economically to move forward in the industry. Thank you again. And please vote in favor of moving this forward to the floor. Thank you. [LB179]

SENATOR LARSON: Thank you, Senator Brasch. That will close our hearing on LB179 and move us to LB160 which is mine. [LB179]

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SENATOR COASH: Okay. We're going to open up the hearing on LB160. Senator Larson, you're recognized to open on your bill. [LB160]

SENATOR LARSON: Thank you, Senator Coash and members of the General Affairs Committee. LB160 is also very straightforward. State law already allows for gift enterprises for consumer promotions. In 2011, the Legislature passed LB524 to allow credit unions to conduct savings promotions raffles as a form of gift enterprises. These raffles are intended to encourage customers to contribute their savings account...to contribute to their savings accounts by then being entered into a raffle. At the time LB524 only applied to credit unions because federal law prohibited other financial institutions from conducting such raffles. Since the passage of LB524, the federal law was changed to other financial institutions to conduct such raffles. Therefore, all this bill does is to allow all financial institutions to conduct savings promotion raffles. [LB160]

SENATOR COASH: Thank you, Senator Larson. Senator Riepe, do you have any questions? [LB160]

SENATOR RIEPE: Senator, savings, or at least banks, have given out toasters and those kinds of things for a long time. Is this toasters on steroids? [LB160]

SENATOR LARSON: You know, I don't think it's toasters on steroids by any means. It really is a way to help encourage savings. [LB160]

SENATOR RIEPE: But these can be cash prizes, can't they? [LB160]

SENATOR LARSON: It's my understanding, yes. And I have a feeling that someone is right behind me that will better answer any questions. [LB160]

SENATOR RIEPE: Okay, thank you. [LB160]

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SENATOR LARSON: Thank you, Mr. Riepe. [LB160]

SENATOR COASH: Thank you, Senator Riepe. Any other questions for Senator Larson? Seeing none. All right, we'll start with proponent testimony. Welcome. [LB160]

BOB HALLSTROM: (Exhibit _) Thank you, Chairman Coash, members of the committee. My name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB160. Senator Larson has done a nice job of succinctly outlining the history underlying this legislation. And we simply are here before you today to say that the existing law, which because of federal law restrictions that previously applied and were removed by the American Savings Promotion Act that was passed by Congress, only applied to state and federally chartered credit unions. This bill would extend that to other financial institutions: banks and savings and loans in particular. When the law was originally adopted a number of years ago after Senator McGill introduced the bill, we were asked to participate. And we had told Senator McGill we appreciated her making that offer but we didn't want to put anything in state law that would be prohibited by federal law. And the restriction was basically simply this, banks and savings and loans could not participate in lotteries. And this bill requires the savings promotion raffle to include a deposit as the gateway into the raffle. And banks aren't allowed to do that...or weren't allowed to do that until the American Savings Promotion Act was passed. And now that they've freed us from those restraints, we would like to have the opportunity. My understanding of what the credit unions have done in Nebraska and other states is, as we suggested, the program or the activity is designed to encourage thrift or savings. Statistics that were provided by a nonprofit national group, Doorways to Dreams Fund, back in 2011 indicated that there's a fairly large amount of folks that don't have sufficient savings to guard against an emergency and the need for that. And this has proven to be an effective way at no cost. In fact, the benefit to do savings, to have an opportunity to win a prize, the way that the system or the program is structured to my understanding is

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that, at least in Nebraska, a number of credit unions that are eligible today have joined together, have put their resources together in terms of putting the prize pool together. And they have allowed individuals to earn prizes on an ongoing basis and then have a grand prize at the end of the year or at some point. And again, I think it's been effective to carry out the objective. We think it will be a good thing for banks to be able to participate and savings and loans, and would ask for your affirmative approval of LB160. Be happy to address any questions. [LB160]

SENATOR COASH: All right. Thank you, Mr. Hallstrom. Senator Riepe. [LB160]

SENATOR RIEPE: I have a quick question. Mr. Hallstrom, thanks for being here. My is this, do you have any idea, is this going to step it up 10 percent in savings, or 50 percent? Do you have any feel for that? [LB160]

BOB HALLSTROM: I don't have any statistics that would show. I just think that the national groups that came in in the limited number of states at that time that had participated had shown that there was a nice bump in savings, particularly for those folks obviously that hadn't been saving prior to that time. So I think it's just a positive and the old familiar win-win all around type of situation. [LB160]

SENATOR RIEPE: Thank you. [LB160]

SENATOR HALLSTROM: Thank you. [LB160]

SENATOR COASH: Thank you, Senator Riepe. Any other questions for Mr. Hallstrom? Seeing none, thanks for coming down. [LB160]

ROBERT HALLSTROM: Thank you, Senator. [LB160]

SENATOR COASH: Don't see you in this committee very often. Take the next testifier in

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support. Welcome. [LB160]

BRANDON LUETKENHAUS: (Exhibit __) Welcome. Thank you, Mr. Chairman and members of the General Affairs Committee. My name is Brandon Luetkenhaus; it's spelled B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s, and I am here on behalf of the Nebraska Credit Union League. Our organization represents 96 percent of Nebraska's 68 credit unions and their 465,000 credit union members statewide. Our credit unions are owned by their members and directed by a board of volunteers. As Mr. Hallstrom alluded to, in 2011 this Legislature passed legislation, LB524 by Senator Amanda McGill to allow our credit unions to offer these prize-linked savings accounts. And so we did that after the legislation was passed. In 2012, January, we launched our Save to Win program as we called it. For every...a member, credit union member of a participating credit union would come in, open up their Save to Win account which was a share builder certificate. Oftentimes people understand that certificates of deposit often require more money such as \$250, \$500, maybe \$1,000. These share builder certificates, minimum balance was \$25. So you come in, put down your \$25 and open a Save to Win account. For that \$25 and every \$25 beyond that you would get one chance to win a cash prize. In the case of the Save to Win program here in Nebraska with our credit unions, the cash prizes were...monthly cash prizes were \$1,500. In odd-number months, it would be thirty \$50 winners. In even-number months, fifteen \$100 winners. And then at the end of the year we had a grand prize of \$25,000. So in the years 2012 and 2013 Nebraska credit unions that participated awarded \$43,000 in cash prizes to those members. And this is truly a win-win because these members not only save for their financial future \$25 at a time, but they keep those funds in the savings account. They also gain the interest on that account. And in addition, they have the chance to win these cash prizes. So in 2013, we have 11 credit unions that are participating, about 1,500 accounts opened, \$2.5 million saved. That's about an average of \$1,600 an account. That goes a long ways for folks. If their car breaks down or they have an emergency that comes up, they have a nest egg of savings there that they can use for an emergency. So with that, we are in support of this because we believe that if you include the banks to offer this

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program, obviously more consumers in Nebraska will hopefully be encouraged to save for their financial future as our credit union members have been able to do. And I'd be happy to answer any questions. [LB160]

SENATOR COASH: All right. Thank you. So we have a bill with the bankers and the credit unions both supporting it. [LB160]

BRANDON LUETKENHAUS: Well, we're hopeful that the bankers will also support our public funds legislation that we bring. (Laughter) Probably not likely. [LB160]

SENATOR COASH: This is a place to start for harmony. I like it. Thank you for your testimony. Senator Riepe, you have a question. Oh, I'm sorry. Seeing no questions, thanks for coming, Brandon. [LB160]

JULIE KALKOWSKI: (Exhibit _) Good afternoon. My name is Julie Kalkowski, J-u-l-i-e K-a-l-k-o-w-s-k-i. I'm here to support LB160. I was one of four people who testified on behalf of LB524. Where this idea came from, just so you know is the Pew Charitable Trust every year does lots of surveys. Four years running they found that 38 percent of Americans thought the only way to get out of debt was to win the lottery. So they say why don't we make savings fun? So they did it. Worked really well. We were the second state in the country to pass this legislation with LB524. It passed 43-0 on the floor. The odds are good. Brandon already talked to you about the savings, about the report. I handed out a copy so you can see all the stats on that. One thing you should know is that 62 percent of these account holders are financially vulnerable folks. And we know that the one way to prevent debt for a lot of low-income families is for them to have savings and that's why we're very supportive of this. The national savings rate is only 4.4 percent. Anything we can do to incentivize savings is very critical. Lastly, I work with low-income single mothers. And when I ask them, many of them would have about \$25 to \$50 left over after they paid all their bills. And I...we really, you know, promote savings. And so I said, you know, if you had this opportunity to put it in a Save to Win

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account, would you do that or you still go to the casinos because remember, 38 percent of Americans think the only way they're going to get out of debt is to win the lottery. They said, oh, we'd go...we'd deposit money in these accounts. And I said, well, why? And they said because the odds are better of winning. So I really support this bill. I work with financially challenged families. We know the number one way to prevent debt is to have savings. So thank you for your time. I'll take any questions or not. [LB160]

SENATOR COASH: Thank you, Ms. Kalkowski. Seeing no questions, thanks for hanging in there and testifying today. We'll take the next testifier in support. Seeing none, we move to opposition. Is there anybody here to testify in opposition of LB160? Any testifiers in opposition? Seeing none, any testifiers in neutral capacity? Seeing none, any letters to read? Then, Senator Larson, you're recognized to close on LB160. He waives closing and we will go to the next bill. [LB160]

SENATOR LARSON: And we plug on. LR10CA. Senator Schumacher. [LR10CA]

SENATOR SCHUMACHER: Thank you, Senator Larson and members of the Government Committee. My name is Paul Schumacher, District 22... [LR10CA]

SENATOR COASH: Hold on, hold on a second. [LR10CA]

SENATOR LARSON: We're General Affairs, Senator. [LR10CA]

SENATOR SCHUMACHER: Nope, nope. Today you're Government and I'll explain why. [LR10CA]

SENATOR COASH: Don't put us in that light, Senator. [LR10CA]

SENATOR LARSON: I'll let Senator Murante know then. [LR10CA]

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SENATOR SCHUMACHER: Okay, all right. Paul Schumacher, District 22 in the Legislature. Why did I say you were Government? If you look at LR10CA, it doesn't authorize any gambling. It doesn't authorize any booze. It doesn't authorize any sin, doesn't deal with any of those things. It deals with how good or bad an idea it is to put things in the constitution which may inhibit the legitimate functioning of government. The provision of the constitution that we're dealing with here was first drafted back in the 1860s and it originally said that there are two things...of all the things in the world that it could say, it only singled out two that the Legislature that not have authority to act on, just two: not banking, not railroads, not pipelines, not any of those things that it could have said the Legislature has no authority, two things. Legislature shall have no authority because of our moral convictions to authorize games of chance and to authorize divorce--there, solve those problems. How smart was that? How smart is it to put that type of profession of philosophy in a governing document, to say, you know we are such a peace-loving people that our Legislature shall not have the authority to resist marauders coming across our borders at night to steal the grain out of our bins. When that happens, we shall lay down our arms and let them do it night after night because we're a peace-loving people. How smart would that be? How smart is it to put moral judgment in a constitution? As an academic issue, as a practical issue one has to say not very smart at all because 100 years later, 200 years later, at some point that may cause you to suffer loss and not be in the public interest. And if you put it in a constitution, you can't even talk about it. What good does a talk about do it if you can't do anything about it once you're done talking? This provision of the constitution applies to Legislature and to the people's initiative process. The people signed an initiative and passed a law saying in the early days, there shall be divorce, but no good. There should be gambling or games of chance in this setting be no good because it's just one of those things that we are taking a position on irregardless of the rationality or the change in time. That is the essence of poor government and poor constitutional writing. And it's been proven out. We have divorce in Nebraska now. In fact, we have no-fault divorce. They tried it with prohibition. That didn't last long at all either. With gaming we've seen horse races and charitable lotteries and banks offering lotteries and all of these things in

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the sense of gaming on a piecemeal basis. What LR10CA does is it takes that limitation away and empowers the Legislature or the people to respond to changing times. Won't get in very much here today with the \$400 million a year give or take that crosses our border carrying with it a 1.75 multiplier effect of economic loss, \$10 a second give or take. No need to get into that, even to discuss it. Can't do anything about it anyway. Won't get into the fact that if you looked at the statistics, our crime rates, our divorce rates, our bankruptcy rates in Nebraska are in some sense in many occasions higher than they are in neighboring states with gambling. Won't get into the fact whether there correlation or not. Wouldn't do any good if we did. Won't get into the fact that basically at this point 57 percent of Nebraska's population are ready to say we need to do something in response to being raided by our neighboring states. No need to talk about that because we can't do anything if we want to. No need to do any of those things or have the debate even because we are powerless to take any particular action with regard to this issue, made powerless by something, an immoral wave or what was thought to be immoral wave in the 1860s. This particular provision also takes into account the odd situation that the Supreme Court has put the Legislature in and the initiative process in regarding single subject law. Those of you that were around last year know the Legislature passed a law that said you could race dead horses or something to that effect. And the proceeds went to a specific area along with the proceeds of live horse racing. Well, the Supreme Court stretched a great deal to come to the conclusion that that was two subjects, okay? Can't even put a bill out there now that says, oh, we're going to allow casinos but just two because what if I want three and you want slot machines too? Some have argued that what we should do is just flat out repeal the entire section of the constitution. But embedded in that section is provisions that some of the state lottery has go to go toward education and environmental trust. So is that one subject or two if we repeal it all? Are we repealing mandatory provisions? We're stuck in a mess and it is time for us to say, you know, there's a final exception to this section of the constitution and that exception is all other games of chance restoring to the people and to the Legislature the ability to respond to situations that we need to respond to. Even as we speak we are having a wave of slot machine-like machines

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sweep across the state. It's very difficult for anyone to enforce the law against them because they cleverly mix into the slot machine playing touching the screen, stopping the spinning wheels by a touch of the screen. It's all calculated out to be random in the end, but it gives the illusion that you're doing something and it's a game of skill. Last I heard from the Patrol, they were just looking for the \$35 dollar gaming sticker on the side because to prove whether it is more skill than chance which is legal, or more chance than skill which is illegal is just way too costly. And to rub salt into wound, where do these games originate from? Iowa. It isn't enough they're...have position on our borders, an attack force of the highest density of slot machines anywhere in the state of Iowa, more slot machines in a tighter area across the border in Iowa than anywhere else in the state of Iowa. And they're not there for Iowans to have fun. They've done detailed studies that say, look, that positioning of that rating force will be funded by Nebraskans at about 80 percent of the customers there. I know that I've been told that all those Nebraska plates in those Iowa casino parking lots, that those are just janitors doing work over there, that the people playing are from Iowa. And you can believe that if you like, but most of us have common sense. And most of us also have common sense to know that with two-thirds of the population within an hour of that particular spot and 90 percent within two hours, we have access, our Nebraskans have access to being taxed by Iowa in every possible respect. And that the only thing that we...and what we get stuck with is them coming back, the 3 percent that do have problems coming back with those problems and putting them on our nickel, that we know. We have no regulatory control. We have no tax control. We must sit back and let that raiding party come across our border with their hatchets and with their tools of the raid and move into our granaries every night to take our grain while we sit back and say, you know, we're a peace-loving people. I'm not foolish enough to think that there isn't 17 people to filibuster this proposition. There probably is. But let them stand up and filibuster it while we look for money for preschool education, while we look for money for property tax relief, while we look for money for economic development. We have an obligation to let the people have access to their constitutional document and let them decide straight up whether we should have that authority or not. And for those of you who may hear the

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argument that, oh, Nebraska have every time they turned around rejected gambling, not so. The latest...the last time there was gaming propositions on the ballot of general casino-type level gaming was in 2004. There were two competing proposals on the ballot then. One, an initiative process, some parts of it passed. Its weakest proposition got 47 percent of the vote and it would allow a number of casinos. The competing proposition was put on there by the Legislature and I think would have allowed two or three casinos and it received 37 percent, I believe, of the vote, or 36 percent. Not everybody that voted for one voted for the other. Forty-seven percent plus that portion of the thirty-six percent that didn't vote for it easily over fifty percent of the people said yes. But because of the competing nature of the propositions on the ballot, the answer was no. Nebraskans have had enough of this hypocrisy that we have enabled. And we owe it to them to put a simple clean proposition on the ballot and ask whether or not they want us to respond. I'll be happy to take any questions. [LR10CA]

SENATOR LARSON: Senator Riepe. [LR10CA]

SENATOR RIEPE: Thank you, Senator Larson. I have a series of three different questions I'd like to pose. First of all have you considered legislation that would create a drawbridge between Omaha and Council Bluffs? (Laughter) [LR10CA]

SENATOR SCHUMACHER: I'll tell you what we probably should do is a strike force, just come in with a bunch of these drones remotely. And then if you're coming back with money, we pick you up and cart you away and fleece your pockets on the money that you're coming back and...no... [LR10CA]

SENATOR RIEPE: Well, it sounds like none of them are coming back with any money. [LR10CA]

SENATOR SCHUMACHER: Well, some of them are. You've got to give enough to get them to go back again. [LR10CA]

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SENATOR RIEPE: I hear you. My second question would be, are you proposing unlimited gambling? [LR10CA]

SENATOR SCHUMACHER: I'm not proposing any gambling. I'm proposing that we have the authority to address that question. [LR10CA]

SENATOR RIEPE: Which could be tantamount to unlimited gambling. [LR10CA]

SENATOR SCHUMACHER: Which could be. [LR10CA]

SENATOR RIEPE: Yes. [LR10CA]

SENATOR SCHUMACHER: Or it could be one casino. [LR10CA]

SENATOR RIEPE: The other question and last one that I would have, Mr. Chairman, is that, is this legislation to authorize video horse racing slots that was taken off because of the Supreme Court... [LR10CA]

SENATOR SCHUMACHER: This legislation has nothing to do with video slots. [LR10CA]

SENATOR RIEPE: So this is a broad... [LR10CA]

SENATOR SCHUMACHER: This is a broad... [LR10CA]

SENATOR RIEPE: The whole banana. [LR10CA]

SENATOR SCHUMACHER: ...removing the restriction on the legislature to consider these issues. That's what it does. Doesn't authorize a single card game, a single slot

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machine, a single horse race, a single anything. It just says that the Legislature has the authority and jurisdiction in this matter just as it does on banking, on insurance, on any other of the thousands of things that the Legislature has authority to deal on. [LR10CA]

SENATOR RIEPE: So you're going for the whole enchilada. [LR10CA]

SENATOR SCHUMACHER: No whole enchilada. I am going...I'm not going for it. This enables the people to decide if they want us to respond in some way, maybe with one casino, maybe with the whole enchilada. But we can't do anything now. [LR10CA]

SENATOR RIEPE: Thank you. [LR10CA]

SENATOR LARSON: Are there any other questions from the committee? One question for you, Senator Schumacher, if we were to send this LR10CA out and the people would pass it, the legislature would have the ability to decide where that money is being spend as well, anything that comes in under this proposal then. [LR10CA]

SENATOR SCHUMACHER: Well, no money comes in under this proposal. [LR10CA]

SENATOR LARSON: I know. I know no money comes under this proposal. I know this doesn't legalize gambling. This gives the legislature the authority to chose what games or casinos. This, I understand completely, this does not allow gaming in the state. But if this were to pass and the Legislature were to then come back and legalize gaming, we would be able to decide where that money went. [LR10CA]

SENATOR SCHUMACHER: Of course. [LR10CA]

SENATOR LARSON: Okay. If we wanted to put it toward property tax relief. [LR10CA]

SENATOR SCHUMACHER: That's a debate that we're not allowed to have today.

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[LR10CA]

SENATOR LARSON: On games of chance, on games of chance. [LR10CA]

SENATOR SCHUMACHER: We can't do games of chance and we can't decide where the money is going to go. [LR10CA]

SENATOR LARSON: (Exhibit _) Exactly. Thank you, Senator Schumacher. And we will now take supporters of LR10CA. And I would also like to read into the record James Moylan of the Nebraska Licensed Beverage Association submitted a letter of support of LR10CA. Supporters. All right, we'll move on to opponents of LR10CA. Welcome back to the General Affairs Committee. [LR10CA]

GLEN ANDERSEN: (Exhibits _) Thank you. I have some handouts here. My name is the same as it was before, Glen Andersen, G-l-e-n A-n-d-e-r-s-e-n. Thank you for having me again. And, Senator Schumacher, I beg to disagree I believe that we are looking at a moral judgment in this issue. In an amateur's definition, a constitution is for laws that are important enough that we do not want an instantaneous change. That's...I don't know whether that's correct, but that's the way I look at it. The people of Nebraska need a voice in the general election vote to change a constitutional law. And we do not want changes by the whim of 49 senators. First of all, in my handout I have a cover sheet and then an article I submitted an essay in the World-Herald and it addresses some of the things Senator Schumacher has discussed. And back to this issues, in pondering your vote on this bill, you probably have two considerations that are completely different. Your first one, is it really something that should be with the constitution or another law? The second issue is probably how you feel about gambling in general. And that's going to affect your vote on this probably as much as anything else. But why is this part of the constitution? Regulation has been...of gambling has been part of the constitution for a reason. Previous lawmakers knew that people wanted a direct voice in the gambling issue. Why are issues of such importance? They never go

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away. Once we push the button, it's over. Gambling is terrible way to generate tax revenue. Casinos are not a level playing field. In the end, the house always wins. And in terms of generating tax revenue, we're talking about 60 percent of the money is generated on the backs of 5 percent of the adult population. It's a very regressive tax. It's a pathetic way of taxing. We better just go out and ask everyone to pay a little more tax rather than trying to get it through gambling. Gambling is bad for families. Gambling is bad for the economy. Casinos are expensive and built for a reason. The reason: They get the money from the people that walk in the door. Money spent on a casino cannot be spent on main street. With gambling, there are winners and losers. The casinos win. The rest of us lose. Thank you. [LR10CA]

SENATOR LARSON: Thank you, Mr. Andersen. Are there any questions from the committee? Thank you for coming. [LR10CA]

GLEN ANDERSEN: Thank you. [LR10CA]

SENATOR LARSON: We will take the next opponent. Welcome back, Ms. Parker. [LR10CA]

AMBER PARKER: Thank you. On such important issues, it's worth to stay and block out a whole day. All right. My name is Amber. Do you need me to state and spell again? [LR10CA]

SENATOR LARSON: Yes. [LR10CA]

AMBER PARKER: Okay. Amber, A-m-b-e-r, last name Parker, P-a-r-k-e-r. So I am going to address why I am an opponent of LR10CA. I was sitting here and I was thinking I want to talk about just kind of this year and if LR10CA had passed, the type of power that it would take away, again, from the people and give to the Nebraska State Legislature. And as Ecclesiastes in the Bible says, there's nothing new under the sun. So

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I don't know if Senator Schumacher has heard this one. But earlier this year, it was struck down in committee on the rules in regards to the votes being transparent and who would vote for...with the Speaker position or in Committee Chair positions. This is what I want to point out of what LR10CA would do and how it is written. It would be an "I'll scratch your back if you scratch my back." For example, this is an example, of those who would be pro-gambling, Senator Schilz, or Senator Schumacher who's introduced the bill, they could say, you know, we can hide our votes of who votes for what committee. And this person wants to be on this committee. LR10CA opens the door for a confusion like that for certain things and people in that way and in that position to say, I'll trade my vote if you vote for me in these Committee Chairs. This is one of the reasons that our Unicameral was set up, the second house being a part of it as the populous in the state of Nebraska. This vote belongs to the people. In no way, shape, or form should the Nebraska State Legislature be here. I believe there are definitely conflict of interests as I know that Senator Schumacher does have keno places. I don't know the correct terminology. If you call it keno in restaurants or keno in bars. But I think everything when we are talking especially about something as important as what we are addressing today, every pro and con needs to be addressed. And I believe that there are ulterior motives. There is a reason why the Nebraska Constitution is the way it was. And what went to the Supreme Court last year. And with that said, I am definitely an opponent of LR10CA. I would like to say I would be interested in knowing a demographic study of those who have lost money and the lost money being paid as taxes to our state. I think we would see that those who have lost the money...or in gambling, it doesn't compare if you would ask their families of what their family members or a loved one had gambled away on the cost of their expense. And that I don't see addressed here. And that is my final comment. [LR10CA]

SENATOR LARSON: Thank you, Ms. Parker. Do we have any questions from the committee? I do have one. [LR10CA]

AMBER PARKER: All right. I'm ready I think. [LR10CA]

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SENATOR LARSON: Ms. Parker, do you believe that the people should have the right to give the Legislature the power to regulate gaming? [LR10CA]

AMBER PARKER: Do I believe that the people should give the right to the...? [LR10CA]

SENATOR LARSON: No. Do you believe that the people should have the right to give the power to regulate gaming to the Legislature? [LR10CA]

AMBER PARKER: I do not because I believe that would be an infringement upon our Tenth Amendment and the United States Constitution. [LR10CA]

SENATOR LARSON: So you don't believe the people should even have the right to give the Legislature... [LR10CA]

AMBER PARKER: No, no, no, no. That's not what I'm saying. I'm saying... [LR10CA]

SENATOR LARSON: That was the question that I asked. [LR10CA]

AMBER PARKER: No. Well...and let me address it further and stop me if I'm not. My concern is that the vote belongs to the people in the state of Nebraska. [LR10CA]

SENATOR LARSON: And what is your impression of LR10CA? In your reading of the bill, what is LR10CA because I was a little confused in terms of... [LR10CA]

AMBER PARKER: Oh, okay. To explain the process... [LR10CA]

SENATOR LARSON: No. What is your opinion of LR10CA? What do you believe that it does? [LR10CA]

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AMBER PARKER: I believe it opens the door, as we don't have transparency in right now in our state Legislature based upon votes. And I believe in the twisting of these votes that certain things could be passed down and the second house, the populous, not being acknowledged in this area and us being overhauled as Nebraskan voters. Does that answer your question, Senator? [LR10CA]

SENATOR LARSON: I think it answers it. But you know that's not what LR10CA does, correct? [LR10CA]

AMBER PARKER: Well, LR10CA, what it would do is if it were passed out of committee and into the floor, then the vote would go to the people and the state of Nebraska. But I'm going to the heart of what the bill would do if the people voted in that way, that I believe that there is a conflict of interest because it is again, we are supposed to be within a smaller government, not a big-government mentality. And it would create a lot of friction within our state. And I just think that if that were the case, people wouldn't be informed. How many people are willing to come forward and address these issues and boldly answer, and how you're trying to put me on the spot with this. [LR10CA]

SENATOR LARSON: Thank you, Ms. Parker. And as I said, for the record, just so we do understand this legislative resolution, the people would have the choice to give that power to the Legislature. And should they choose to, then they are telling the Legislature that it's okay. We aren't taking away any constitutional amendment... [LR10CA]

AMBER PARKER: Right, but haven't the people already voted and don't you guys have more...I mean in the past, because the votes belonged to the people now. [LR10CA]

SENATOR LARSON: Do you believe that the constitution should ever be changed? [LR10CA]

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AMBER PARKER: What constitution are you regards to? [LR10CA]

SENATOR LARSON: The Nebraska Constitution. [LR10CA]

AMBER PARKER: Well, there are certain things and measures. Yes, I do believe that they should be changed. [LR10CA]

SENATOR LARSON: Okay. Thank you. [LR10CA]

AMBER PARKER: Thank you. [LR10CA]

SENATOR LARSON: Next opponent, please. Welcome back, Ms. Loontjer. [LR10CA]

PAT LOONTJER: Thank you, Senator Tyson (sic). I'm Pat Loontjer, spelled L-o-o-n-t-j-e-r, executive director of Gambling with the Good Life. We're on record as opposing all expanded gambling bills. And we considered both of the ones that you're considering today, both LB250 and LR10CA. As far as LB250 is concerned, it's faster play equals faster losses. And we definitely would oppose that. You know, we're very fortunate that we do have in our constitution that it has to go to the people for expanded gambling in the sense that it's already listed in the constitution. The state of Iowa did not have that privilege. Back in the early '90s, they literally opened up their newspaper one morning and found out that their legislature and their governor had literally sold them down the river on the two riverboats that they decided to put in. The people had no vote. And now, no riverboats, 21 land-based casinos because that's how this thing will go. It will grow and it will grow because once the foot is in the door, once the camel's nose is under the tent, it never stops. We want to keep this state the good life state. We don't want to see it become the gambling state. We believe that expanded gambling in any form is going to hurt our families. After 20 years of doing this, we have heard story after story after story of families that have been devastated. We've heard of suicides. We've heard of embezzlements like you heard from the Brown family. Nothing good that would

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help the state of Nebraska or our families comes from expanded gambling. And we believe that the senators are elected to protect the people, that that's what you're here for. You're to protect our interests. You're to protect our futures and our children's futures. And I think you have to take this very seriously because certain votes will open up a can of worms that you'll never be able to close again. So we want to urge you to vote no on both of these bills and not even allow them out of committee. Although Gambling with the Good Life is not a religious organization, we do give God the glory for what we've accomplished in 20 years because it's truly a miracle how a small group of people has been able to hold back this giant. And I want to leave you with Psalm 25:3 where it says: None who have faith in God will ever be disgraced for trusting him but all who harm the innocent shall be defeated. So we urge you to please vote your conscience, stop any form of expanded gambling in the state. Enough is enough.

[LR10CA]

SENATOR LARSON: Thank you, Ms. Loontjer. Do we have any questions? Senator Riepe. [LR10CA]

SENATOR RIEPE: Thank you, Senator Larson. Pat, can you tell me how much money it would cost to challenge a referendum? [LR10CA]

PAT LOONTJER: We expected that if it went on the ballot, the proposal, that it was going to cost us \$400,000. Our previous campaigns were in the \$300,000. We have to raise that money because, you know, we have no resources because the opposition will spend 25 times that. Their budget is unlimited. [LR10CA]

SENATOR RIEPE: And that could happen over and over again. [LR10CA]

PAT LOONTJER: Oh, yes, absolutely. I think what they put into our constitution, even it was way back in 1860s, it was put there to protect us. I mean, I'm grateful to our forefathers that they foresaw the possibility of what could happen if unlimited gambling

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was allowed in the state. There's not one state that's really profited from this because the national statistics will show that for every \$1 a state or a community gains from gambling revenue it costs them \$3 in social costs. So it's a lose-lose for everybody. [LR10CA]

SENATOR LARSON: Any further questions? I'll have one for you, Ms. Loontjer. [LR10CA]

PAT LOONTJER: Be nice. [LR10CA]

SENATOR LARSON: I'm always nice to you. Do you know what percentage of Nebraskans live within 75 miles of a casino currently? [LR10CA]

PAT LOONTJER: No, I don't. No. I do know that it's a 50-mile radius would be the most vulnerable. And I agree... [LR10CA]

SENATOR LARSON: Roughly, and I was just...and because I was just wondering if you did know. From my current estimates, over 90 percent of Nebraskans live within 75 miles of a casino. And so I think we have to be very careful when we talk about social costs and 3:1 if we're bringing them in and things of that nature in terms of making that statement with so many people living close to the...close to them already. So I just want to, for the record, be very...because it's obvious you, Gambling with the Good Life oftentimes points out the social costs of casinos. And just because they're in a different state doesn't mean we're not already suffering the social costs. And you guys do a great job of pointing out the social costs that we already are experiencing. And I guess that is my point. You're right. We do experience social costs currently... [LR10CA]

PAT LOONTJER: Yes, yes. [LR10CA]

SENATOR LARSON: ...but none of the benefits. [LR10CA]

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PAT LOONTJER: And that's why I think Senator Riepe's suggestion is excellent with the drawbridge. [LR10CA]

SENATOR LARSON: So thank you. [LR10CA]

AL RISKOWSKI: Good afternoon, Senators. Al Riskowski; it's R-i-s-k-o-w-s-k-i, Nebraska Family Alliance. I just wanted to simply state to me one of the big issues today is to know what the will of the people of Nebraska is. Are they willing to relinquish their vote and give it to the Legislature, or do the people of Nebraska want that vote and enjoy the opportunity to vote on such controversial bills? My guess is you would create a firestorm in the state of Nebraska if this type of legislation were to move forward. I really believe that the people of Nebraska highly covet their ability to vote on these type of issues and would find it objectionable in an attempt to take that vote away from them. The only thing I could find that would help give some sort of indication of what might happen in Nebraska, because obviously I don't believe any of us have taken a poll to try and understand what exactly would happen in Nebraska, but something like this happened in Kentucky. And they did a poll and the people said 87 percent said I want to vote on those things. And I believe that if we took a poll in Nebraska, it would be very high as well. The people of Nebraska like their ability to vote. It not only gives them the opportunity to voice their opinion, but it is a safeguard here in our state. So thank you very much for the opportunity to speak today. [LR10CA]

SENATOR LARSON: Thank you, Mr. Riskowski. Are there any questions from the committee? Seeing none, thank you. [LR10CA]

AL RISKOWSKI: Thank you. [LR10CA]

CHRISTIAN MEIER: Good afternoon, Senators. Again, my name is Christian Meier, C-h-r-i-s-t-i-a-n, Meier, M-e-i-e-r. Senator Schumacher, I want to compliment you. You

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may have missed your calling as an orator. And as someone who knows a little bit about that business, you do rather well. I'd like to encourage the Unicameral and also the senators present today to, on the issue of taxpayer funds and revenue within the state of Nebraska going outside our boundaries, to look to the west and see the opportunity that we have now that we are in competition with the state of Colorado. We are missing out on perhaps a multibillion dollar industry in regulating the use of marijuana. And perhaps if we are ultimately concerned about keeping funds within the state, that would be as lucrative an undertaking as what we're talking about. And on that matter, I do agree that probably 90 percent of what Senator Larson highlights with regard to the number of people who have access to out-of-state gambling institutions, perhaps it's wise that we take up that cause so that we might keep those funds in state. Of course I'm speaking tongue-in-cheek. When you mention about the moral authority that the state of Nebraska reserves and make comparisons to other avenues of life that some people have thought of as vices in the past, I would say that the state reserves the right to speak to matters of moral standing as it encourages good citizenship within the state. I would also submit to you that the state already is engaged in regulating the industry that we've been discussing today in terms of gambling. Already there is the distinction between chance and skill. And that is a gray line indeed. And so I would submit to you that the state of Nebraska already exercises what this constitutional amendment proposes, that the state does have the right and the ability to exercise the gaming industry. Thank you for your time. [LR10CA]

SENATOR LARSON: Do we have any questions from the committee? Real quick, I like your example marijuana in Colorado and a reason for Nebraska to do that. I'm sure some senators would love to look at that. Do you know how much Colorado brought in from marijuana last year? [LR10CA]

CHRISTIAN MEIER: I think those numbers are yet to be seen as it's a new industry. [LR10CA]

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SENATOR LARSON: It's a little short of what their estimates were of \$99 million I think. It was creeping down in...I have legal counsel looking for it right now. I didn't think they were going to hit those estimate last I heard. They were looking closer in the seventies. Do you know what Iowa brought in in terms of gambling revenue in '10, '11, '12, '13? [LR10CA]

CHRISTIAN MEIER: I imagine that if you were to compare all the states surrounding Nebraska--South Dakota, Iowa, any other states that currently receive revenue from gambling--that it would be in excess of billion of dollars. [LR10CA]

SENATOR LARSON: Just for your own knowledge... [LR10CA]

CHRISTIAN MEIER: But if the council has an opinion or a number that it wishes to share with the group present today, I would very much be... [LR10CA]

SENATOR LARSON: Iowa in 2010 brought in \$280 million; 2011, \$302 million; 2012, \$286 million; 2013, \$276 million. Also estimated in the new casino that's being built in Sioux City which is just outside my legislative district... [LR10CA]

CHRISTIAN MEIER: Indeed, and I would suggest to you... [LR10CA]

SENATOR LARSON: ...just outside my legislative district--excuse me... [LR10CA]

CHRISTIAN MEIER: ...that those monies are going... [LR10CA]

SENATOR LARSON: ...sir--just outside my legislative district will bring in an economic impact of \$120 million to Iowa in Sioux City and add 500 jobs. When I'm dealing with rural population decline in the oldest legislative district in the state of Nebraska, these are concerns. I also have the fewest age 25- to 64-year-olds in the state of Nebraska in my district. Rural population decline is a real thing. I think there's a very key difference

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between comparing the use of marijuana, which many would consider a gateway drug to other things, and the moral authority of gambling and things of that nature. [LR10CA]

CHRISTIAN MEIER: Indeed, with the aging populations that the state faces, it would be difficult for any of us to look and in good conscience let all of those monies go outside the state. [LR10CA]

SENATOR LARSON: Actually it looks like it was \$40 million in the first ten months from the Colorado marijuana. [LR10CA]

CHRISTIAN MEIER: Indeed. [LR10CA]

SENATOR LARSON: And you know, not that I support the legalization of marijuana, but I've also seen statistics that said crime went down in Colorado after the legalization of marijuana. And so I think when you're making these comparisons, you have to be very careful... [LR10CA]

CHRISTIAN MEIER: Oh, I wasn't meaning to make a comparison as such. [LR10CA]

SENATOR LARSON: ...in terms of--excuse me, sir--when you're making these comparisons, you have to be very careful in terms of how you're doing it and make sure know the facts that you're getting ready to step up because tongue-in-cheek without the facts is not taken well. And I... [LR10CA]

CHRISTIAN MEIER: Well, I think that we have a broad upside in terms of the revenue that's available to the state of Nebraska. And I think along those lines it would be a great travesty if we did not seek to maximize the revenue with whatever ability we might have. [LR10CA]

SENATOR LARSON: Well, I sure hope that you'll testify in favor of Senator Garrett's

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medical marijuana bill. Thank you. [LR10CA]

CHRISTIAN MEIER: Thank you. [LR10CA]

SENATOR LARSON: Any other questions from the committee? Thank you. Have a nice day. [LR10CA]

CHRISTIAN MEIER: Thank you. [LR10CA]

SENATOR LARSON: Any more opponents? Mr. Wimmer, welcome back to the committee. [LR10CA]

DAVID WIMMER: With your permission I'm going to stand. I'm 67 years old and my left knee is two weeks old. [LR10CA]

SENATOR LARSON: Of course. Can you just move the microphone up so they make sure we get it all. There we go. [LR10CA]

DAVID WIMMER: Is that working okay? [LR10CA]

SENATOR LARSON: That's fine. I just want to make sure that you get on the record. [LR10CA]

DAVID WIMMER: Dave Wimmer. [LR10CA]

SENATOR LARSON: And speak into that microphone so we can...you get what I'm saying, so we can get it all recorded. [LR10CA]

DAVID WIMMER: Three minutes doesn't allow a lot of time to address the interesting observation that was made in an earlier hearing about the role of government, Senator

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Larson. But you mentioned that you felt the role of government was to protect people, me included, from others but not to protect me from myself. And I guess I would in thinking about that interesting question, again, invite people to enter into a casino environment, do some observation, think a little bit and observe a little bit. And after careful observation perhaps ask if that isn't a predatory environment that enacts some fairly predatory behaviors on the customers coming in there. And so perhaps it's role of government to protect me from that type of thing. The imagery used by Senator Schumacher in the form of hatchets attacking granaries was pretty predatory in my mind. And I struggle to see how we will solve anything by using our own hatchets on our own granaries here in this state. So that leads me to part two, protecting myself from myself. And I really do believe that I have the opportunity if I want to go out and mount an initiative to change the constitution as a citizen, get enough people behind me, go through the work, albeit it would be difficult, I have the ability to do something that perhaps others would deem destructive but nobody is there to protect me from myself because I have that right. So a couple observations there. I'm opposed to the bill and open to questions. Thank you. [LR10CA]

SENATOR LARSON: Are there any questions from the members of the committee. Seeing none, thank you. Welcome back. How are you this afternoon? [LR10CA]

LORETTA FAIRCHILD: Fine, thank you. [LR10CA]

SENATOR LARSON: Excellent. [LR10CA]

LORETTA FAIRCHILD: (Exhibit __) I am Loretta Fairchild, L-o-r-e-t-t-a F-a-i-r-c-h-i-l-d. I am here as a Ph.D. economist. I feel great pride in the Nebraska Legislature for the high quality of the decision making that regularly goes on here. And I thank you for your hard work. I'm going to abandon my written testimony here and hope that you will please read it and I hope that you will get it. I have turned in copies. They money thinking here that is going on about the fact that a very high percentage of Nebraskans live within

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borders of casinos and whether we are losing money over the border constitutes extremely muddled thinking, leaves out enormous pieces. I won't be allowed time to fully explain that, but you need to understand that that's essentially a red herring. And the way I want you to think about this is Florida and Nebraska. We are losing money to Florida on oranges indubitably. We lose money on tourism. We are in debt, I'm sure. The state of Nebraska loses to Florida. That doesn't mean somebody is going to come out and say let's start growing our own oranges because we can't stand this. That is the actual real analogy. Other speakers have already said, I just need you to listen to them, that when you spread casinos across the state you will be adding to the costs more than any of these tax projections and the benefit projections will bring in. Those are facts. The rest of this is red herring. The other piece I want to talk to is an original question about linking taxes to spending on specific items. That has no basis on good economics for any tax whatsoever. And it's simply a marketing ploy. Think of it that way when you see it. The reason it's done, it's only done with things that are fairly unpalatable and you're trying to get the Legislature and voters to buy into them. It creates problems in tax policy. Taxes have...think of money available to Nebraska as a bathtub. Money comes in from various taxes and fees. Money goes out to specific sets of uses. The Legislature is in charge of deciding those two things. There's only so much water in the bathtub. Linking, trying to draw a hose from one tax to one spending no matter what that tax is to justify it, simply creates more problems than it's worth. Please continue maintaining the high standards of this legislature. Don't vote this out of committee until you have received substantially more research-based results. I gave you a written list of the kinds of things that I hope you will ask for. [LR10CA]

SENATOR LARSON: Thank you, Ms. Fairchild. Are there any questions from the committee? Looks like there's none. Thank you for your time. Any further opponents? Welcome back. How are you? [LR10CA]

JENISE BROWN: Thank you. My name is Jenise Brown, J-e-n-i-s-e B-r-o-w-n. Again, I want to thank you as senators of the state of Nebraska. And I'm asking you to really

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truly listen to the root of what's behind my testimony. You know the background of what's happened to me. You don't know about me. I'm from Holt County, Mr. Larson, your district, Stuart, Nebraska, a town of 600. It is the good life. That is the good life up there, the Sandhills. I grew up on a pig farm. My husband grew up there on a cattle farm. And we grew up trusting people. We left our doors open at night. We left our car doors open. We left the keys in the car. We went to the neighbors and borrowed milk and took them 10 bucks next week. I mean truly that is probably...the trust that we had is probably what my husband had at the time that she was embezzling from him. He trusted his CFO, okay? Put casinos across the state of Nebraska. Every businessman in this state is going to have to watch whether his employees are going to the casinos or not. He's going to have to watch every accountant that they hire because they're in charge of their funds and their money. I really, truly...this is not a windfall for the state of Nebraska. This is not a windfall to open this up. And I get that this is not opening up gambling but you're taking that right away from me as a citizen of the state to have a voice. I want a voice in this from now on. I didn't have an opinion until today, until three years ago, July of 2012, that I suddenly had an opinion. And I truly...I didn't wish this upon myself. But we've lost everything. We've lost our business. We've lost four quick shops. We've lost our house. We've lost our cars, except they let me keep my son's car. Really, all I have left is the clothes on my back and they had an auctioneer come and look at my furniture. I want you to let the people of the state of Nebraska continue to have a voice because this is important that they have it. I can't tell you how many calls, when we were put on the front page of the World-Herald, how many calls we got in the next few months--a lot. This was my story. This was me. This is what happened to me. They wanted to be heard by somebody that understood. I will tell you that my attorney fees up to this point--and this is the low side--is \$500,000. And that's not even all of it. That's what it has accumulated to in fighting an industry that can go on forever. They could fight me forever. We've pleaded. Just leave us alone at this point. I have no funds to fight an industry like that. You put that industry across the state of Nebraska, you are going to be hurting your citizens and Holt County. [LR10CA]

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SENATOR LARSON: Thank you, Ms. Brown. Any questions from the committee? Thank you. Any more opponents? Any neutral testimony? Senator Schumacher, you're recognized to close on LR10CA. [LR10CA]

SENATOR SCHUMACHER: Thank you, Senator Larson, members of the committee. I always enjoy Pat's testimony. And every once in a while she says something that I have to agree with. You heard the testimony that the last 20 years have been a miracle. Well, I want you teleport yourself to the Iowa side of the river. Look up to the heavens and every second a \$10 bill falls out. The person next to you says how does this happen? And you say I guess it's a miracle because from the other perspective, that's what it is: a miracle that Nebraska stands by and lets that type of raid happen on its resources, so much so that didn't you find it odd that there were no big casino operators that appeared here today? There were no big gambling interests that appeared here today. Fourteen years ago, one of the largest gambling operators in the world was here trying to argue for a constitutional amendment that legalized constitution...casinos for him. What's changed? What's changed is the market is gone. There's big operators. They're on the Iowa side of the border and they've got access to most of Nebraska. Why build another one on the west side when you can get people to just stream across the river to your side and deposit their money. And you can send whatever problems back to Nebraska. They've got the market: \$400 million a year zipping across, 10 years, 20 years. No response from our side of the river. That's what it is. Nebraskans are...the 3 percent that have a problem, they're going to have a problem. We've seen witnesses to that effect today. Us not having gaming in Nebraska didn't stop those problems. It just moved them 30, 40, 50 miles. This particular proposition very simply says the Legislature needs to discuss these issues and have ability to act on these issues. And you know what, because of the recent decisions of the Supreme Court regarding single-subject rule, the people can no longer act on them. I don't think we could put a measure on the ballot that said here's how we're going to do gaming, folks. We're going to have four casinos and the proceeds are going to go toward preschool education. Can't do it. We're going to have four casinos. What if I want three? Is that four subjects? Casino one, casino

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two, casino three, casino four. It's time that this provision go into the pages of history and we be allowed to respond as responsible government officials to the predicaments that we, through no fault of our own, have been put in. And I would encourage you to advance this to the floor of the Legislature so that we can have discussion there, and I'm realistic, probably a filibuster that will be successful. But we owe that to the people of Nebraska. [LR10CA]

SENATOR LARSON: Thank you, Senator Schumacher. Are there any questions in closing? Senator Hughes. [LR10CA]

SENATOR HUGHES: Thank you, Chairman. Senator Schumacher, in your time in the Legislature, what is probably the most weighty responsibility that you feel the legislators have to vote on? Is it gambling or is something else? [LR10CA]

SENATOR SCHUMACHER: Oh, there are so many weighty things. I mean we've got taxes. We've got education. We've got loss of revenue to things like this. We've got Medicaid expansion. We have got a lot of weighty things and I don't know if you can order them in any order. But any time you're dealing with the sum of \$400 million a year, it's not featherweight. [LR10CA]

SENATOR HUGHES: Okay. [LR10CA]

SENATOR LARSON: Thank you, Senator Hughes. With that, thank you for testifying. [LR10CA]

SENATOR SCHUMACHER: Thank you. [LR10CA]

SENATOR LARSON: And LR10CA is now closed. Before we move on to LB330, we've been here for a while. And so I'm going to take a 15-minute break for the committee members to get up, stretch their legs. And we'll be back here right around 5:20 to

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resume. [LR10CA]

BREAK

SENATOR COASH: We are going to open up the hearing again for the last bill of the day which is Senator Larson's bill, LB330. This bill has multiple components to it, as Senator Larson will go through. Some of you, many of you in fact, are probably here to testify on one of the components or maybe two. So what I will ask as we bring up testimony, that you make it clear in your testimony the provisions of the bill that you're testifying about so that we can try to have a clear record of support and opposition for the individual components of the bill so that the committee can take that into consideration. So with that, Senator Larson, you're recognized to open on LB330.

[LB330]

SENATOR LARSON: Thank you, Senator Coash and members of the General Affairs Committee. I am Senator Tyson Larson, T-y-s-o-n L-a-r-s-o-n, representing the 40th Legislative District from O'Neill. LB330 incorporates a number of proposals that fall under the Liquor Control Act which is Chapter 53 of the Nebraska Revised Statutes. Nearly all of these proposals appeared in the Nebraska Liquor Control Commission's legislative letter. One of my responsibilities as Chair of the General Affairs Committee is to assist the Liquor Control Commission in maintaining the Liquor Control Act. The act was originally passed in 1935, so you can imagine in the last 80 years there have been a need for various updates to keep the act current. Some updates come about as a need to remove or replace antiquated language and others from keeping current with advances in technology with the alcohol industry. One example of the latter has been the development of alcohol in powder form. While the act already defines alcohol to include liquid and gaseous forms, it does not include powder. The Liquor Control Commission has begun seeing the emergence of powdered alcohol products and wants to stay out in front of the problem. Therefore, LB330 includes powder as one of the forms of alcoholic liquor that the Liquor Control Commission would have jurisdiction

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over on page 2, lines 15-20. Over the years, the Liquor Control Commission has seen products that don't neatly fit the definitions in that. For example, the act currently defines wine as any alcohol derived from the fermentation of fruit. One product that has become very popular has been hard cider. Since hard cider is derived from fruit such as apples and pears, it is considered wine instead of beer which impacts wholesalers and results in higher taxes. While the act allows beer wholesalers to deliver to retailers, liquor wholesalers cannot without charging a delivery fee. Therefore, a beer wholesaler who wants to deliver hard cider must first get a liquor distribution license and then charge the retailer for a separate delivery fee just for the hard cider which requires a separate bookkeeping. In order to streamline the distribution process and bring the act's definition of beer more in line with the marketplace, LB330 defines hard cider as a beer instead of a wine on page 3, lines 8-23. Number three, the Liquor Control Commission would like to accept late renewals of liquor licenses but would feel more comfortable if the act expressly allowed it. Therefore, the commission requested that the act be changed to allow licensees 30 days for late renewal which is reflected in LB330 on page 12, lines 13-14 and lines 2-3. Number four, prior to 2010, a liquor licensee could not be issued within 150 feet of a church. With the downturn of the economy, churches started popping up in previously vacant downtown storefronts which hindered downtown redevelopment projects because bars, restaurants, and reception halls couldn't get liquor licenses in those areas given the 150-foot restriction. In 2010, the Legislature passed LB861 which allowed a provision to allow liquor licenses to be issued within 150 feet of a church but would require a hearing before the Liquor Control Commission before a license could be granted. Based on the commission's experience during the last five years, it has been recommended that the act be changed to only require a hearing in such situations that the affected church submits a written request for a hearing to the Liquor Control Commission which LB330 does, page 13, lines 11-12 and page 16, lines 25-26. Number five, the Liquor Control Commission has seen an increase in the amount of seized contraband as a result of the illegal importation and manufacturing. The commission requested that the act clearly state the commission has the authority to determine how to best dispose of confiscated alcohol which could

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include the sale of the products if determined safe to enter the marketplace. LB330 give the commission the authority and this discretion, page 18, lines 5-6, 19-20, 21-22, 26; and page 18, lines 31; and page 19 on line 4. Number six, similar to the issue with the churches that I mentioned earlier, there are still other locations that have 150-foot bubble around them in which a liquor license cannot be issued. One such example is homes for the aged. The Liquor Control Commission has seen an interest by retirement and assisted living and nursing home facilities in acquiring liquor licenses. LB330 strikes the word "aged" so such facilities could apply for liquor licenses if they would like, page 16, line 11. Every once in a while we run into antiquated exception in the act that was intended to benefit particular businesses or business. There was once a Nebraska wholesaler who did not have a shipping license who would import beer into Nebraska for the purpose of selling it in another state. The Liquor Control Commission no longer believes this exception is necessary and asked to have it eliminated. Therefore, LB330 eliminates this exception in the act on page 4, lines 3-9. Number eight, the Liquor Control Commission has seen retailers selling kegs containing alcohol other than beer. So I requested that the keg laws be updated so that they apply to all kegs containing alcohol liquor and not just beer kegs. Therefore LB330 strikes the word "beer" and inserts the word "alcohol" in order to broaden the keg laws. On page 14, line 23; page 25, lines 3, 22-23, 15. Number nine, LB330 repeals the mandatory closing time for all licenses. This would allow anyone selling alcohol to decide when to close. I believe that the marketplace could and should dictate when licenses close for the day. Therefore, there is no need for the state to regulate closing time, especially since all other applicable laws would still be in place. It would still be against the law for retailers to overserve customers and customers would still be subject to the laws including public intoxication and driving under the influence. Eliminating a closing time gives retailers more control and flexibility in their own small businesses. From a market standpoint, I honestly do not foresee many retailers, especially in small towns being open 24 hours a day. There are some bar and restaurant owners who aren't even open until 1 am now. My guess is that establishments will be open past the traditional 1 a.m. or 2 a.m. on select occasions such as a conjunction with events on the CenturyLink Center in

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Omaha or the Pinnacle Bank Arena in Lincoln. For me, the bottom line is I believe in personal responsibility and not overregulating our businesses. By eliminating closing time I believe we are reducing unnecessary regulation and returning personal responsibility to business owners and customers, on page 9, lines 16-19; page 17, 12-13; page 19, lines 14-15. Finally, I know that the Liquor Control Commission has been short staffed and stretched very thin in recent years. We're talking about an agency that is responsible for over \$30 million per year in excise tax that goes to the General Fund but is only given \$1 million of operating budget. I included this personal services limitation of \$102,000 to help address the personnel needs of the Liquor Control Commission so they can continue doing their jobs at a high level that is expected from them. Thank you. And I'd be happy to take any questions the committee may have. [LB330]

SENATOR COASH: All right. Thank you, Senator Larson. Just to kind of work backwards here, what did you call it, the personal needs? [LB330]

SENATOR LARSON: Personal services limitation. [LB330]

SENATOR COASH: Excuse me. Personal services limitation, you're increasing that at \$102,000. How did you come up with that particular number? [LB330]

SENATOR LARSON: I believe that is...working with the Liquor Control Commission, I believe that's two auditors and a compliance staff or a secretary staff, what it would cost them to hire those three positions. [LB330]

SENATOR COASH: Okay. So that \$102,000 buys the state three positions. [LB330]

SENATOR LARSON: Three positions, and as I said, this is an agency that puts over \$30 million a year back into the General Fund. It's a great enforcement. And the auditors essentially go through and audit businesses and make sure that they're paying

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all the alcohol taxes that are due to the state of Nebraska. So it's kind of one of those...I think Senator Janssen is asking for more money in the Auditor's Office, too, on this same deal. Saves Nebraska money. [LB330]

SENATOR COASH: Okay. The seized alcohol provision, is there...can you describe, and if you can't, I'm sure Hobie will bat cleanup as he always does and we'll get some clarification, but what's happening right now with seized and what (inaudible)? [LB330]

SENATOR LARSON: I'll describe it as best as I can because I'm sure I'll be shorter than Hobie. (Laughter) Essentially what's occurring right now is--and Hobie will bat cleanup a little bit--when alcohol is either being illegally imported or they're not paying their taxes, i.e. illegally imported, it's my understanding that the law right now requires that the alcohol be disposed of and essentially poured down the drain. And what I talked about in number five is this would give the commission the ability, if that alcohol is deemed safe, it would give the commission the ability to resell that or even fine the person that has been...that was bringing it in illegally fine them and collect the taxes. So either one is my understanding. But as I said, Hobie will be able to bat cleanup a little bit in terms of what the exact problems that he has with a few examples that he'd mentioned to me. [LB330]

SENATOR COASH: Okay. And finally, Senator Larson, the very first provision you described having to do with powdered alcohol, I just want to be clear LB330 gives authority to the commission to regulate it but is not prescriptive as in how it's regulated, is that accurate? [LB330]

SENATOR LARSON: Yeah. And one thing that I don't think that a lot people don't understand is powdered alcohol can be sold in Nebraska right now. The commission just doesn't have any statutory ability to regulate it. So for anybody that opposes putting powdered alcohol in the statutes essentially opposes the state having any regulatory authority on it. That's why this is included. I noticed in some of the letters that people

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were opposing putting the of powdered alcohol under the statutes like we were legalizing it. It's not that it already is illegal. They would still have to apply for a shipper's license through the Liquor Control Commission. They'd still have to go through the proper channels, but it's not illegal. [LB330]

SENATOR COASH: It's currently just an unregulated product. And the provision in LB330 gives the commission the authority to regulate it. [LB330]

SENATOR LARSON: Exactly. [LB330]

SENATOR COASH: Could that authority to regulate include banning it if the three liquor commissioners, or two of three decided that was...? [LB330]

SENATOR LARSON: It's my understanding...I mean Hobie would probably be a better one to answer. I don't think so in terms of the ability to straight out ban it. I know they'll have the ability to, if the packaging is more...looks like it's more focused towards kids or something like that, they can not allow some of that, you know, that specific one in or not. But I don't it gives the ability to ban it. [LB330]

SENATOR COASH: Okay. Thank you, Senator Larson. We'll see if we have any other questions from the committee. Senator Kolterman. [LB330]

SENATOR KOLTERMAN: Yes. Senator Larson, thanks for bringing the bill. The Liquor Control Commission probably can't ban that as far as powdered alcohol. But we have the ability to do that, don't we? [LB330]

SENATOR LARSON: If the Legislature wanted to ban powdered alcohol, we probably could. [LB330]

SENATOR KOLTERMAN: Okay. Thank you. [LB330]

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SENATOR COASH: But, Senator Larson, your bill does not. I just want to be clear because I've gotten some of the correspondence as well. I think there's some misunderstanding out here about, with regard to that powdered alcohol, what this bill does. Your bill is not proposing a ban. [LB330]

SENATOR LARSON: Nope. [LB330]

SENATOR COASH: Your bill is just simply giving authority to the Liquor Commission... [LB330]

SENATOR LARSON: To regulate. No, and... [LB330]

SENATOR COASH: ...to do rules and regs and regulate it like they do beer, wine, and hard alcohol, correct? [LB330]

SENATOR LARSON: We tried the prohibition experiment in this country. I wasn't around personally but it failed tremendously. And as I talked about at the end of the bill, I truly believe in the free market and letting these products come to market. And maybe they'll survive. Maybe they won't. [LB330]

SENATOR COASH: Okay. Thank you, Senator Larson. Senator Kolterman, you have a follow-up question. [LB330]

SENATOR KOLTERMAN: Senator Larson, I have another question in regard to powdered alcohol. It has been banned in other states as I understand it, is that correct? [LB330]

SENATOR LARSON: I can't tell you if it's actually been banned in other states or if other Liquor Control Commissions have prohibited the sale. Again, Mr. Rupe might know if it's

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been banned in other states. [LB330]

SENATOR KOLTERMAN: Okay. I'll wait for him. Thank you. [LB330]

SENATOR COASH: Senator Hansen. [LB330]

SENATOR HANSEN: Yes, just a clarifying question, so one portion of the bill would change the rules on kegs from being kegs of beer to kegs of alcohol, correct? [LB330]

SENATOR LARSON: Yes. [LB330]

SENATOR HANSEN: What other types of alcohol are sold or marketed in kegs? I understand probably not in Nebraska but in other places. [LB330]

SENATOR LARSON: I think one thing that they're probably looking at is cider, for example, would be a big one. You know, I don't know if I've ever seen wine in a keg, but you could probably put wine in a keg as well. But I'd assume the major consumer would probably be the cider. [LB330]

SENATOR HANSEN: Thank you, Senator. [LB330]

SENATOR COASH: Thank you, Senator Hansen. I don't see any other questions. So thanks for bringing this big bill and keeping us here until 5:30. [LB330]

SENATOR LARSON: It does a lot. [LB330]

SENATOR COASH: Okay. So we're going to go ahead and start the testimony. We're going to start with proponents of the bill. And again, I'll just kind of briefly go through. We've got powdered alcohol, cider, 30-day late renewal, church renewals, seized alcohol, definition of homes for the aged, wholesaler provisions, keg laws, 24 hours, and

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giving the commission another \$100,000. And that's it. So if you have testimony, try to indicate in your testimony which provisions you're either for or against. It's possible that there's a testifier that's for a provision in the bill and against a different provision. So you can combine that testimony and we'll try to make the record clear. If you're clear, we'll make the record clear. Hobie, thanks for starting off. You're probably going to come back though. [LB330]

HOBERT RUPE: That's fine, I'm here. [LB330]

SENATOR COASH: We'll give you the floor. [LB330]

HOBERT RUPE: (Exhibit __) Hobert Rupe, H-o-b-e-r-t R-u-p-e. I currently serve as executive director of the Nebraska Liquor Control Commission and I want to thank Senator Larson for introducing this. As he stated, most of the items were part of the commission's legislative letter which we have a statutory authority to recommend to the Governor and by and through him to the Legislature changes or updates to the act. We testify in support of all those found in our letter. The 24/7 was not found in our letter. The commission has long taken a neutral stance on setting of the time. That's the decision of the Legislature and we will enforce whatever you see fit. I just want to go through some of these. I'll try to answer some questions. Powdered alcohol is a unique product that just came out. It's currently not being sold because it's currently mired in a labeling issue in front of TTB, the federal people who regulate it. And so what you've seen is you've seen some states come out and outright ban it. There's a whole bunch of misinformation one way or the other depending upon whose Web site you happen to look at at that particular time. I think it's arguable that we could regulate it anyway because it does...because the mechanism it works, it does turn into liquid alcohol which we regulate. But the last thing I want to do is have some smart attorney say well, hey, it's powder when it comes into your state. You don't have the power to regulate it. That's why it was in our legislative letter. Our current intention is that when, because I understand it will be approved by the feds for labeling purposes, when a shipper

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decides to try to import it, we will have a show cause hearing, have them come in to try to address these concerns. The concerns are from health and safety, whether it's a safe product meaning that's I think the one area where if a product is unsafe the commission could ban it. The other issues we would look at as Senator Larson spoke of would be labeling. A couple years ago when the premade Jell-O shots first came out, we stopped them from coming in originally because they were labeled too...the packaging looked just like the kids' Jell-O. And we made them relabel it...repackage it similar to an alcohol bottle. But we would have a hearing for it before it comes in or not. The other issue from a very technical aspect is how do we tax it? We tax based upon a gallonage. Well, we would have to look at, you know, is it the standard serving size? Is that where the tax is going to accrue, how it's going to accrue? I just want to make it clear that this clearly gives us the power to treat it as any other alcohol product that we might look at, and that's our plan right now. The commissioner said when it comes in, we want to have a hearing on it. [LB330]

SENATOR COASH: Okay. Hobie, is that all you have to testify on... [LB330]

HOBERT RUPE: That's all I have on powdered alcohol. [LB330]

SENATOR COASH: ...on powder? I'm just going to...we're going to go ahead and turn off the light because I want to get through each of these and make sure the committee members have an opportunity to ask any questions on each of these provisions. And I'll start. I just want to repeat what I heard to clarify. If the commission is given the authority, which under LB330 it is, to regulate this, was it your testimony that then the commission does have the authority to ban the product should it deemed to be unsafe? [LB330]

HOBERT RUPE: If a product comes in unsafe and I'm just talking generally, if a product is unsafe in its packaging or its...you know, we have the power to ban it. We generally don't because we sort of rely upon the TTB whether it's safe for...because the federal

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licensing would be FDA and also the TTB. The concerns about powdered alcohol would be, you know, can it be misused very easily. I mean there was fears it could be snorted causing a bunch of problems. And so our concern is there's a whole bunch of shots being fired both ways. The best way is for the commission to actually have the people come here, introduce evidence whether it should be brought in and how it should be taxed. [LB330]

SENATOR COASH: Okay. [LB330]

HOBERT RUPE: So I can't really say we will ban it right away because that hearing hasn't happened yet. [LB330]

SENATOR COASH: Sure. Is the product, I know it's not in Nebraska, but is the product on the market in some places or not? [LB330]

HOBERT RUPE: Not yet. [LB330]

SENATOR COASH: Okay. [LB330]

HOBERT RUPE: TTB...the reason this got traction was TTB originally approved the packaging and a lot of states are going, what? And then they held it back or they pulled it back and basically revoked the approval to sell amongst all the states. I have contacts in TTB. It's probably going to be approved probably sometime in the next three months. And so I think a lot of states are taking proactive issues. Some have gone all the way to automatically ban them which is the state's prerogative under the Twenty-first Amendment. You can ban whatever you want on alcohol from importation. What I want to do is I just make sure that it's clear that if it does come in that the commission has the power to regulate and tax it. And if should be banned, we'll ban it. [LB330]

SENATOR COASH: Okay. Thank you, Hobie. We'll see if the committee has questions

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on this issue before we move on to the next one. Senator Kolterman. [LB330]

SENATOR KOLTERMAN: Yeah, bear with me a little bit because I appreciate your testimony. But you're talking way above my head. [LB330]

HOBERT RUPE: I apologize. [LB330]

SENATOR KOLTERMAN: I don't know what TTB stands for. [LB330]

HOBERT RUPE: Tax and Trade Bureau. It is the...when post-9/11, when the federal government reorganized and the old BATF, they sort of divided the criminal and the other things, the old Bureau of Alcohol Tobacco and Firearms. [LB330]

SENATOR KOLTERMAN: Okay. I'm with you there. [LB330]

HOBERT RUPE: What TTB is, Tax and Trade Bureau is a division in the federal Department of Revenue, the Treasury Department which regulates the interstate commerce of alcoholic beverages as part of their duties. And it also collects the federal tax. Pretty much, if you want to be in more than one state, you have to have your label approved by the TTB as meeting the requirements that it has in its rules and regulations. Otherwise, it can't enter the marketplace. And so the first hurdle that you often have when you're trying to introduce a new product is you have to get your label approved by TTB. [LB330]

SENATOR KOLTERMAN: Okay. Thank you. Now my second part of the question is and I asked it earlier, can you tell me what states have already banned this and what states are looking to ban this? [LB330]

HOBERT RUPE: I believe Tennessee already banned it. And there's another one I saw that had some pending litigation. What I can do is I can tell you I can look it up and I can

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get that information to you probably in the next day or two. [LB330]

SENATOR KOLTERMAN: I just have information that four states have banned it and two other states have passed it through two houses. And I just want to get that on the record more than anything. [LB330]

HOBERT RUPE: What I can do is I can check with the national association and get that information to you. [LB330]

SENATOR KOLTERMAN: Okay. [LB330]

SENATOR COASH: Thank you, Senator Kolterman. Senator Hughes. [LB330]

SENATOR HUGHES: Can you tell me what the concentrate? I mean is this like 190 proof or 80 proof compared to liquid products? [LB330]

HOBERT RUPE: That's the big problem. Apparently at least if you're looking at the proponent...the manufacturer's Web site, he is selling things at a couple different strengths. He selling some almost as a ready-to-drink cocktail. Basically you pop it open, you pour a little water in, you let it sit for five minutes, and you drink it and you're drinking a Manhattan. Some other ones are almost vodka which then you would add to other products. And I think that's a lot of the confusion is some would be probably right around 20 percent, some would be up to 70 or 80 proof. And so that's going to be the big issue of how we're going to look at it, you know, from taxation purposes. It will be a distilled spirit so it will be taxed at \$3.75 a gallon. Well, we're going to have to look at...and the issue of course is you can make it stronger or weaker depending on how much water you add to the product. The product as I saw demonstrated comes in a foil package about the size of your hand, maybe a little bit larger. It's not the small, teeny, tiny ones like you see in like the normal drink mixes. The manufacturer of it is putting it out there for like hikers and backpackers. It's no different than like a Mountain House

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dehydrated food which you'll take in a backpack and add water to. That's what he's saying. Of course the concern had is it's going to be easy to take into places where you can't consume depending upon the size and packaging, and such as that. [LB330]

SENATOR COASH: All right. Thank you, Senator Hughes. Senator Kolterman. [LB330]

SENATOR KOLTERMAN: I just have some more questions about this. You talk about packaging. When I think of packaging of a liquid that's powdered, I think of Kool-Aid... [LB330]

HOBERT RUPE: Yep. [LB330]

SENATOR KOLTERMAN: ...which is a small package. Is that how it's packaged, do you know? [LB330]

HOBERT RUPE: The one that I saw that's going up before TTB is much larger than that. I think that was a lot of the concerns the states had originally when they heard of it because they were sort of seeing like those little Crystal Light, you know, the size of your pinky which you pour into a bottle of water, shake, and then you've got a cocktail. You know, so I think that's part of the reason why he's having such a problem going through the TTB labeling process. I think they're dealing with some of those concerns. Like I said, the one I saw was larger, the package. But that would...I definitely wouldn't want it to be too easy to bring in. It's...there's a whole host of problems but I think the key thing is to make sure that we can regulate and deal with it that way. [LB330]

SENATOR KOLTERMAN: Can I keep going? [LB330]

SENATOR COASH: Sure. [LB330]

SENATOR KOLTERMAN: How easy will it be to regulate it if like a...I'm thinking now

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about children, young adults, kids that are in our universities. I'm not a teetotaler, but I have some real serious concerns about this type of alcohol. And I really worry about the availability and how it will be marketed, much like cigarettes have been marketed over the years to young adults. I just wonder how you would regulate that. [LB330]

HOBERT RUPE: Well, the key thing is we clearly states we can regulate it so that somebody can't say that it's not regulated. I think most have acknowledged that it should. Now the way that the regulation would work is it would go through the three-tier distribution system. It would have to be a licensed shipper, manufacturer, would then have to ship to a licensed wholesaler. You'd have to find a wholesale partner who wanted to import it. At that point in time, the excise tax would be collected. And then it would sold to retailers and they would be required to make sure that minors didn't have access to it, much like they can't...they have to keep an eye on other alcoholic products. You know, it is an area which is rife with issues. I mean you've got...a lot of people always complain about the little, what are commonly called airplane bottles. You know, the little teeny, tiny one shots. You know, are they easy to carry in? Are they able to do it? And I'd say the key thing that we're going to have to look at is does a package of this make one drink or does it make nine drinks? How much alcohol is in those? And so I think that's one of the issues...the questions the commission will have when we have the hearing if somebody does want to bring this into the state. [LB330]

SENATOR KOLTERMAN: One last question, I know you're happy about that, Colby, the question is, we know that it's banned in four states and there's two that are looking at banning it. Do you of states that are selling it at the present time? [LB330]

HOBERT RUPE: As of now, no, because it has not yet received TTB... [LB330]

SENATOR KOLTERMAN: Because of the packaging. [LB330]

HOBERT RUPE: ...packaging approval. It's sort of held in limbo until that happens. And

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then they'll have to go out and find a wholesale partner to import it. [LB330]

SENATOR KOLTERMAN: Okay. Thank you very much. [LB330]

SENATOR COASH: All right. Seeing no other questions on the powdered alcohol, we'll go to the...do you have any comments... [LB330]

HOBERT RUPE: No. [LB330]

SENATOR COASH: ...on the cider portion? [LB330]

HOBERT RUPE: Cider. I will very briefly, cider is a...whereas powdered alcohol was a new product, cider is actually a very old product. It's actually an old product that's getting more popular again. The issue is it's sort of, you know, steps the line. Under our current definition is defined as a wine. But at its alcohol content, it's right around 4.5 percent, 5 percent which is where most beer is. It's sold in kegs. It's sold in 6 packs, 12 packs, refrigerated 12 packs. It's got an expiration date unlike wine. So other than the fact where the alcohol comes from, it's more beer-like in a lot of ways for how it's sold and distributed. Its popularity has increased a lot. A lot of people look at it as a gluten-free alternative to a beer because it is gluten free because it comes from fruit, not grain. And then the issue from a mechanical standpoint which was brought up is we went from having to have one invoice for a beer delivery to having to have three because we had to have the beer, then we had the cider, then we had to have either a third invoice (inaudible) for just the shipping on the cider. And trust me, I became a lawyer because math hurts my head too much. Some of the ways they're trying to prorate out when they're delivering 90 cases of beer and only 10 cases of cider and they've already got the cost of goods factored into the beer price and so they have to sort of factor out how much gas they're using of a reasonable delivery fee. It was becoming very nightmarish and thank god I have Jerry Van Ackeren here who's my Chief Auditor who was able to deal with those numbers because it just hurt my head.

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[LB330]

SENATOR COASH: All right. So this provision in the bill just classifies cider as we classify beer because it looks, smells, acts like beer anyway. [LB330]

HOBERT RUPE: That's our theory. [LB330]

SENATOR COASH: All right. Any questions for Hobie on that provision? You got a question? [LB330]

SENATOR KOLTERMAN: Senator, I have a question, yes. [LB330]

SENATOR COASH: Okay. Senator Kolterman. [LB330]

SENATOR KOLTERMAN: I see where...I guess I don't have a problem reclassifying it towards a beer. But is there a reason that we have drop the tax from 95 cents to 31 cents? [LB330]

HOBERT RUPE: Well, as of now you classify it as a beer, beer is taxed at 31 cents; wine is at 95. [LB330]

SENATOR KOLTERMAN: Okay. That's the rationale. [LB330]

HOBERT RUPE: You hypothetically could tax it at one rate and change the distribution surcharge, which I believe was one of the things that was discussed last year at one point in time with the bill. I think mostly given the nature of it, it's probably...I mean, there would be a short-term, I believe, negative impact to the General Fund because of that change. You probably wouldn't see it that big because the other issue is a lot more places which only have liquor stores or package stores would be able to carry the cider legally. Unfortunately, I can tell you right now some of them are probably carrying cider

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illegally because they think it's a beer. [LB330]

SENATOR KOLTERMAN: Okay. Thank you. [LB330]

SENATOR COASH: Any other...Senator Hughes. [LB330]

SENATOR HUGHES: Could you give us a rough estimate of what the difference in taxation would be if we were to change hard cider to... [LB330]

HOBERT RUPE: I believe our fiscal note said at least roughly it would be--and we always sort of go for the worst-case scenario on that--about \$155,000. [LB330]

SENATOR HUGHES: Okay. Thank you. [LB330]

SENATOR COASH: Any other questions for Hobie on the cider portion? All right, seeing none, there's a provision in here about a 30-day late renewal process. [LB330]

HOBERT RUPE: Yeah. We've done that for years. And we had a new commissioner who said, well, where's our statutory authority to do that? And my response was, well, it was done that way when I became director. You know, it's arguable that we wouldn't have it. Currently what we do is we allow somebody to renew up to 30 days late. Oftentimes the problem that will happen isn't because they're being dilatory or late--sometimes there is that--but they won't have a new lease for the entirety of the next year. So there are having to be negotiations to get that renewed. Currently we allow up to 30 days late and then we'll charge a late fee, you know, basically on how late for a penalty. And what we're asking to do is just have it clearly stated that our current policy which has been happening this way for, at least as far as I can check, for the last 40 years, is clear and unambiguous. [LB330]

SENATOR COASH: So this just puts the current practice in the statute. [LB330]

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HOBERT RUPE: Exactly. [LB330]

SENATOR COASH: All right. Any questions for Hobie on this provision? Good? Okay. The next one has to do with the buffer around churches. [LB330]

HOBERT RUPE: Yeah. [LB330]

SENATOR COASH: You want to talk about that a little bit. [LB330]

HOBERT RUPE: Two thousand nine, there was a bill that was brought forward. We had a raise...we had an increase...I mean, the city of Grand Island, for instance, you could not open a bar or restaurant in the downtown business district because of the proliferation of these popup churches in the old storefronts. They had bubbles all around them so you couldn't get...open up a new building in a place which wasn't already licensed. And so the theory was to allow the commission...you do away with the hard "you can't have one" exception, to allow the commission to have the discretion. But as part of that, any of those applications had to have a hearing. Ninety-nine percent of those have come...the churches that have sent a letter into the commission saying we have no objection. We think they're good neighbors. Go ahead and issue it. But we have to have a hearing which is cost. And because...you know, and so it's fees to the commission. [LB330]

SENATOR COASH: In that provision, Hobie, though, if a church said, no, I want to come in, you would set it for hearing. [LB330]

HOBERT RUPE: They'll have a hearing. I can tell you that since that provision, there have been two hearings where the church came in and opposed. Both times the church won. [LB330]

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SENATOR COASH: Okay, all right. Any questions for Hobie on that provision? Senator Kolterman. [LB330]

SENATOR KOLTERMAN: Does this make it either/or, you don't have to have a hearing? [LB330]

HOBERT RUPE: We don't have to have a hearing. But if the church were to file an objection, we would have to have a hearing. [LB330]

SENATOR KOLTERMAN: They can have it. Okay. Thank you. [LB330]

SENATOR COASH: Thank you, Senator Kolterman. I don't see any other questions on that provision. Seized alcohol. [LB330]

HOBERT RUPE: Seized alcohol, currently if it's seized illegally, it has to be dealt with as contraband which normally means it should be sold if it has a value. Nobody has the authority to sell the alcohol, that's the problem. Most of the contraband we seize has been sort of what we call off the grid long enough that we're not going to trust it. We're going to pour it out. The example we had of that was about seven or eight years ago out in North Platte. We had almost 1,000 gallons of illegally brought in wine which was in kegs, by the way, which we basically threw out. We actually contracted with a local septic tank cleaner guy who put a nozzle on the end of the thing and sucked it all out of the kegs. We took it to the local lagoon, treatment lagoon, and flushed it out. Compare that to some seized alcohol which came in from Argentina which was from a licensed entity, was landing at a retailer and being sold basically underneath the table. We seized that alcohol. We poured it out. There was nothing wrong with that alcohol and it had a street value in excess of \$30,000. And that kind of alcohol we would want to make the commission that after any criminal provision would go, that the commission could take possession, that the commission could then have an auction to wholesalers for them to purchase that alcohol, go into the General Fund, and pay the excise tax on

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it. You know, right now, if it's bad it's going to get poured out. But in a lot of ways it was something, a thing of value which we could have then reintegrated in. But there was no mechanism which allowed the commission to sell the alcohol because I give out liquor licenses, but I don't have one for myself. [LB330]

SENATOR COASH: Where do you keep seized alcohol? [LB330]

HOBERT RUPERT: Seized alcohol would usually be held by the Nebraska State Patrol in its evidence lockers. [LB330]

SENATOR COASH: Okay. So would you need to get a liquor license? [LB330]

HOBERT RUPE: No. What I think, this would allow us to...and generally you've got to remember we regulate the people who have liquor licenses. This stuff is generally a criminal act and you're having prosecutors who don't know what to do with it so they're usually charging a...you know, instead of charging the Class III, they'll plea it down to some infraction. But then what do we do with the product? Well, we can't really give it back to the person who illegally imported it. That's called bootlegging. And so the commission...so the Patrol comes to us, goes, what do we do with it? In which case we say, well, you've got to pour it out. This would give us some discretion to have an option other than just pour it out. [LB330]

SENATOR COASH: So you have, given this authority under LB330, you'd promulgate rules and regs as to what to do. [LB330]

HOBERT RUPE: Yes. [LB330]

SENATOR COASH: Now some of the seized of the alcohol, isn't a lot of it for nonpayment of the tax? [LB330]

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HOBERT RUPE: Some of it is. Most times what it is, sometimes it's product going through the state from...the most recent call I got was 20 cases of Kentucky whiskey, which was going through the state that was seized at a traffic stop. And they wanted to know what to do with it because there was no bill of lading. And it wasn't in a truck. It was in the back of a Suburban that some guy was being paid to drive it. Yeah, I think it was 30...28 cases of Maker's Mark. And so, what do we do with that? Well, it's sealed. It's lodged. We know where it came from. [LB330]

SENATOR COASH: So that whiskey is just sitting in the State Patrol evidence right now? [LB330]

HOBERT RUPE: I believe that was released to the guy because the judge released it to the person which... [LB330]

SENATOR COASH: Okay. [LB330]

HOBERT RUPE: They determined that they couldn't link it to a crime back in Kentucky apparently. [LB330]

SENATOR COASH: All right. [LB330]

HOBERT RUPE: Apparently some guy flew from Portland to Cincinnati, went to Kentucky, was driving it back to Portland when he got stopped out near Kearney. [LB330]

SENATOR COASH: Interesting. Okay. Any questions from the committee on the seized alcohol? [LB330]

SENATOR KOLTERMAN: I just have a question. [LB330]

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SENATOR COASH: Senator Kolterman. [LB330]

SENATOR KOLTERMAN: I have a question for our legal counsel along these same lines. [LB330]

SENATOR COASH: He's not going to be able to answer you right now. [LB330]

SENATOR KOLTERMAN: Oh, he can't? Then I'll ask him. [LB330]

SENATOR COASH: Ask him. [LB330]

HOBERT RUPE: Last time I checked I was a lawyer. [LB330]

SENATOR KOLTERMAN: Do you know, there's other contraband that's found throughout the state other than through the alcohol, through your department. How do they dispose of things like illegal cigarettes or marijuana or any of those types or items? [LB330]

HOBERT RUPE: I think those are mostly burned. [LB330]

SENATOR KOLTERMAN: Okay. [LB330]

HOBERT RUPE: Yeah, yeah. [LB330]

SENATOR KOLTERMAN: I just was curious. And if there's precedent, why would we change precedent? [LB330]

HOBERT RUPE: I know the marijuana is burned. I can tell you that in the case where we had the wine from Argentina which was worth about \$30,000, they were very worried, in case they were able to get it back, that we were storing it in a

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climate-controlled environment. And I had a picture. I sent it to the people who we seized it from that it was safely ensconced between two slot machines and 50 pounds of marijuana in an evidence locker. So it's having a good time. [LB330]

SENATOR KOLTERMAN: Okay. Thank you. Like I told you, I'm learning, Senator. [LB330]

SENATOR COASH: You're doing a great job, Senator Kolterman. [LB330]

HOBERT RUPE: For the most part, if it's bad, if there's any question about if it is safe, we'll get rid of it. But if it's stuff which could be sold, you know, which could go to the General Fund, why not. [LB330]

SENATOR COASH: Stay out of the landfills. Okay, I got it. Any other questions for Hobie on that provision? All right, we'll go to the next on which is the definition for homes for the aged. [LB330]

HOBERT RUPE: Homes for the aged, does anybody know what it means? Apparently they did back in 1935 when they drafted the act. We did some research on it. That was pre-Social Security where you had...a lot of times you would have a church...usually they were church-based. An elderly person who had no family, was destitute, you know, where do they put them at? And so they would stay at those types of homes. Coming now 80 years back to now, is a home for the aged a nursing home? Is it a retirement community? Is it a 55-plus learning area? Well, we don't really have a clear definition. And what's been happening is a lot of those 55-plus environments, not only are they not worried about there being alcohol being next to them, they want to get liquor licenses for their restaurants in the middle of these things. And so, you know, oftentimes you don't think about why does an exception or a restriction to the act still make any sense until it smacks you in the face. In this case we're going, I was asked by the attorney for that place, Hobie, can you tell me what a home for the aged is? And I had give him the "um,

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um, um, um, I'm not so sure, let me get back to you" response. I don't think it's applicable right now. A lot of these retirement things are sort of trying to be one-stop shops where you'll move in there when you're 55 or 60 and then you'll transition maybe to assisted living to almost to a nursing home area. And they want to have their own convenience and hospitality things on site and located for them. [LB330]

SENATOR COASH: So this just allows it, and it'd be regulated like any other place is. [LB330]

HOBERT RUPE: It would be regulated like anybody else. [LB330]

SENATOR COASH: Okay. Any questions on that provision? All right. We're going to move on to the provision on wholesalers. [LB330]

HOBERT RUPE: That was a really old archaic special exception put into the act back in the 1970s on behalf of an Omaha-based wholesaler. That was when you first started seeing imported beers coming in from Europe. They were generally looking, instead of trying to go to each state, were wanting to send it to a central hub and then that hub would distribute it to other states surrounding it. This wholesaler wanted to be one of those hubs. But he did not...beer normally under the taxes, when it lands on that wholesaler's dock is when the state tax attaches. They didn't want to be taxed then and then have to get a rebate when it went out of the state. And so they asked for that special exception. Well, it might have made sense back in the 70s when people were starting to bring in Heineken and Lowenbrau for the first time. That's not the way the beer market works right now. One thing we've learned, if there's an old exception that's not needed, get rid of it because somebody will try to drive a truck through it. [LB330]

SENATOR COASH: All right. Thank you, Hobie. Any questions on that provision? Seeing none, keg laws. [LB330]

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HOBERT RUPE: Keg law currently only applies to beer. We are seeing more product. You are absolutely right. Cider is one of them. However, one of the other ones is wine. Wine is generally culled and sold in keg form in what are called "sixers." They're basically one-sixth the size of a keg. And you'll actually be through tap systems at wine places. The concern, what a keg registration act does is when somebody is buying a quantity of alcohol in one container over a certain amount, they have to put the tracking paperwork on it so we know if something bad happens who bought it, where did it come from, tracking it back. It's worked very well for the keg on beers. Seeing as other products are now utilizing that sort of packaging, large-scale packaging, we thought it only made sense to include all alcoholic beverages that are so in containers of that size. [LB330]

SENATOR COASH: All right. Thanks, Hobie. Any comments on the removal of the sales hours? [LB330]

HOBERT RUPE: We are neutral on sale hours. The commission has never taken a position on the hours of sale. That's a legislative prerogative. We enforce what you guys set for the closing time. [LB330]

SENATOR COASH: Okay. We'll see if we have any questions about enforcement. I don't see any. And finally, \$102,000 for three positions. [LB330]

HOBERT RUPE: Apparently that's allowing the PSL. I'm not sure that actually gives us the money, which I hope we could take care of. PSL, most agencies can only spend a certain amount of money for personnel costs. That number there would reflect the salary of two entry level auditors and an accounting person...or a support staff person for it. And we are hopeful that we get some, through this or some other bills, we get some staff because we really need it. [LB330]

SENATOR COASH: So this provision just raises your... [LB330]

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HOBERT RUPE: PSL. [LB330]

SENATOR COASH: It's not an appropriation. Is it an appropriation for that or just...?
[LB330]

HOBERT RUPE: Well, I think there would have to be...if you sought, there would have to be an A bill attached. In what's in LB330 is just the PSL. And then if it went through there would have to be an A bill attached. [LB330]

SENATOR COASH: Okay. So there would be an A bill attached if this was... [LB330]

HOBERT RUPE: Yeah. [LB330]

SENATOR COASH: Okay. I understand. All right. Any questions for Hobie on that provision? Hobie, thanks for walking us through all those. I know it was long. [LB330]

HOBERT RUPE: No problem. I try to be as brief as I possibly could, Senator. [LB330]

SENATOR COASH: You're a good educator. So that will help. Stick around. The committee may have questions. [LB330]

HOBERT RUPE: You notice I only had to go back to 1935 on one of the comments.
(Laugh) [LB330]

SENATOR COASH: We appreciate the history lesson. Okay, so with that, we are going to open it up to anyone here to testify. And we're going to start with the proponents on LB330. Come on up. Welcome. [LB330]

SEAN KELLEY: Good afternoon, Vice Chairman Coash and members of the committee.

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My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today in support of LB330, specifically Section 14, home for the aged. I was that attorney that Hobie referred to. When I asked him what that meant, I had a client who requested us to assist them with getting liquor license at an independent living facility. The commission flagged 53-177 as possibly being an issue. So we did some research and it's an antiquated term. And we appreciate the commission putting that item into their legislative letter and appreciate your support. With that, I'd be happy to answer any questions. [LB330]

SENATOR COASH: So you're just testifying in support of the definition of homes for the aged. [LB330]

SEAN KELLEY: Yeah. [LB330]

SENATOR COASH: Okay. Any questions for Mr. Kelley? Seeing none, thanks for your testimony. [LB330]

SEAN KELLEY: Thank you. [LB330]

SENATOR COASH: We'll take the next testifier in support. [LB330]

KATHY SIEFKEN: Good evening, Senators and committee members. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n. I'm the executive director of the Nebraska Grocery Industry Association and their registered lobbyist here today in support of four sections of LB330. And I will do them in order of page number. So I'm going to start with page 3, the definition of cider, to reclassify it to a beer. It looks like a beer, it tastes like a beer, it has the alcohol content of a beer, and it sells like a beer. So our retailers think it's a beer. It's not. It's a wine. And so there are some ordinances out in other communities, not in Lincoln I don't believe, but in other communities that have certain hours of sale for certain types of alcohol. And so they are probably selling the hard cider thinking it's a beer on Sunday morning and then spirits and wines they can't sell until

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noon. And so we have people that are out of compliance. They don't mean to be out of compliance, but they're confused and we would just as soon change that definition. I'm told by my members that the amount of sales of cider is very negligible. So it's not a big deal as far as volume. But it would help in letting them know what they can and cannot sell. In addition to that, because it is classified as a wine, when the beer distributor brings it in the back door, they collect COD for the beer. And the wine is invoiced and there are two different taxing rates. And so if you play with this and make the rate different from beer, the excise tax rate different from beer, that doesn't solve the problem of two invoices because they're still going to have to have the two invoices. [LB330]

SENATOR COASH: Got it. Number two. [LB330]

KATHY SIEFKEN: Okay. And then the other ones very quickly. Page 12, the renewal allowed 30 days prior to and after, that's sort of a no-brainer. Life happens and the Liquor Control Commission has been doing it anyway. Page 13 and page 16 waives a hearing if you're within 150 feet of a church. We've had a member have to come all the way to Lincoln for this hearing. The church didn't show up but the church did provide a letter saying it's all fine with us. And so just in the way of efficiencies it would make sense that that part of the bill were passed. And then on page 19, the \$102,000 for two auditors and support staff. Hobie has been asking for money for years because he's been saying that's he's short staffed and he truly is short staffed. And so we would support that aspect of the bill also. The rest of it, it's not really our...they're not our issues and we don't care. [LB330]

SENATOR COASH: All right. Thank you, Ms. Siefken. We'll see if we have any questions. I don't see any. Thanks for sticking it out today. [LB330]

KATHY SIEFKEN: Thank you. [LB330]

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SENATOR COASH: All right. Next testifier in support. [LB330]

JUSTIN BRADY: Senator Coash and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Liquor Wholesalers, specifically only on Section 6 which is the cider piece. And again, as you've already heard, it is more of the logistical point of delivery that has raised this issue from the wholesalers' standpoint. The liquor wholesalers do very little of the delivery--well, they actually do no delivery--but very little of the sale of this product. And therefore, it truly is carried by the vast majority of the beer wholesalers and believe that that's where the product should lie under definition. So with that, I'd try to answer any questions if you have any. [LB330]

SENATOR COASH: All right. So your testimony was just on the... [LB330]

JUSTIN BRADY: Just Section 6, page 3, lines 9-23. [LB330]

SENATOR COASH: The cider reclassification. [LB330]

JUSTIN BRADY: Yes. [LB330]

SENATOR COASH: Okay. Thank you, Mr. Brady. We'll see if you have any questions. I don't see any. Thanks for sticking it out. [LB330]

JUSTIN BRADY: Thank you. [LB330]

SENATOR COASH: (Exhibit __) We'll take the next testifier in support. Anybody here to testify in support? Okay, seeing none, before we move into the opposition I'll read into the record a letter of support for parts of LB330 from Kristin Crawford of the Associated Beverage Distributors of Nebraska. Okay. So now we'll move to the opposition of LB330. And we'll take those as they come. Councilman, why don't you come up. You

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can go first. [LB330]

ROY CHRISTENSEN: (Exhibit __) Senator Coash and members of the committee, my name is Roy Christensen, R-o-y C-h-r-i-s-t-e-n-s-e-n. I'm a member of the Lincoln City Council. However, I am not representing the council in its entirety because we have not had a chance to go over this bill. However, I am representing the city of Lincoln. There are primarily two...primarily, a couple issues that we have with this bill. First, is the unintended consequence we believe of the entertainment district, the effect on entertainment districts. The entertainment district concept is a fairly new endeavor for the city of Lincoln and we have worked very hard to make our Railyard area a vibrant and viable place. When the entertainment district legislation was first proposed, the city worked with lawmakers to make sure the area had adequate oversight in the law. This oversight included two important provision: closing the outdoor areas to liquor service at 1:00 a.m. and having food available during the time alcohol was available. These provisions made sure the entertainment district was not an all bar, all alcohol, all the time. We believed that people should have the option to order food, enjoy the area, and bring their families along. Having food available is an essential part of a responsible liquor service. Allowing an entertainment district to be open 24 hours with no required food service would certainly undermine the entertainment and family aspect of such districts. As to hours of operation, in first reviewing LB330, city law was somewhat uncertain as to the intent of the bill with respect to the operating hours of liquor establishments. If the intent is to allow alcohol sales at any time at the discretion of the license holder, in other words, the license holder could choose to be open 24 hours or could choose to open...or close at 1 a.m. or even earlier, then the city of Lincoln is concerned about potential unintended consequences. Allowing liquor license establishments to be open 24 hours a day puts a strain on the police department during the early morning hours when here in Lincoln we have the smallest shift and the fewest number of officers on the street. LPD has noted that 24 hour availability of liquor service tends to attract the kind of people who are looking to party hard and into the early morning hours. Law enforcement then is left to deal with the aftermath which often

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includes drunk drivers, fights, and transports to detox centers. Twenty-four hour liquor service or even staying open later than the current 2 a.m. closing time here in Lincoln will probably be most prevalent during special events like New Year's Eve, Fridays before home football games, and potentially the Saturday evening after a football game. Those are busy times for LPD and increasing the open hours for liquor service will not only tax law enforcement resources but also other services on which LPD relies. During these types of events, our detox center frequently fills up and officers have to find alternative solutions to deal with people who cannot care for themselves. Transportation services like cab companies have worked hard to provide rides for those who should not drive and have been mindful of closing times within increased staffing. All these services would be affected by changing the dynamics of when people leave liquor license establishments. In short, the city of Lincoln has done extensive work to have viable businesses, restaurants, and liquor establishments. We, like other cities, are doing more with less and stretching those essential services becomes more and more difficult. Trying to cover 24/7 operation of liquor licenses would put a strain on an already stretched police department and potentially the services law enforcement depends on to keep people safe. For these reasons, we oppose this aspect of LB330. [LB330]

SENATOR COASH: Okay. Councilman, do you have any other provisions of the bill you wanted to get on record? [LB330]

ROY CHRISTENSEN: No, sir. [LB330]

SENATOR COASH: Okay. You timed that perfectly then. Let's see if there's any questions from the committee. Senator Riepe. [LB330]

SENATOR RIEPE: Thank you for being here. I assume that all of your comments can be extrapolated to every other city in the entire state, not just Lincoln. [LB330]

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ROY CHRISTENSEN: Probably could. We're concerned that we would lose the local control. We really believe this is a "one size fits nobody" solution because there are distinctly different characteristics of different communities. And local control, when liquor licenses, establishments need to close I think is an essential part of each community's decision. [LB330]

SENATOR COASH: All right. Any other questions for the councilman? Thanks for sticking it out today, Councilman. [LB330]

ROY CHRISTENSEN: Thank you. [LB330]

SENATOR COASH: We'll take the next testifier in opposition. Come on up, Gary. [LB330]

GARY KRUMLAND: Senator Coash, members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I won't repeat what Councilmember Christensen just said. But it does apply to other cities too. The concern is about the strain on law enforcement, especially if the bars are open longer. The other concern though is it does repeal Section 53-179, which is the section that does set hours now. But it also says that city councils and village boards by ordinance can set hours that are fewer or have bars open less hours than what the state law allows. And that would completely eliminate that. So the local governments would no longer have any control over the hours. And that would again affect law enforcement and other public safety aspects. So that was the only part of the bill that we oppose is the 24 hour issue. [LB330]

SENATOR COASH: Okay. Thank you, Mr. Krumland. I don't see any questions from the committee. Thanks for your testimony. We'll take the next testifier in opposition. Welcome. [LB330]

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REGGIE BOLLINGER: Thank you, Senator Coash and General Affairs Committee. My name is Reggie Bollinger, R-e-g-g-i-e B-o-l-l-i-n-g-e-r. I'm here as a public citizen, also a father, a son, a professional, and a person in recovery of the disease of alcoholism. Nebraska's alcohol laws are pretty liberal the way they are. The window where a person cannot buy alcohol is shrinking. You know, we saw it go from 1:00 a.m. to 2:00 p.m. and a couple years ago it was allowed Sunday from 6:00 a.m. to noon. You know, during those hours where a person cannot buy alcohol, essentially somebody like me who struggled with the disease of alcoholism, has essentially been a forced respite. It's been a time where I have been unable to purchase alcohol which has benefited me. It's given me the opportunity to sober up when I've been in the middle of a drinking binge. It's given me the opportunity to think, to consider my decisions. And if you take that window away, for a person like me that's scary because I will have access to alcohol if I choose to drink again anytime I want. And history has shown me that I don't make good decisions when I'm drinking. I'm a risk to the community. I'm a risk to myself. And you know, I have bought alcohol. Once the law was changed to 1 a.m. to 2 a.m., you bet I was out there buying booze. I was out there driving under the influence to get somewhere during 2 p.m. when traditionally we didn't have that availability to buy alcohol. Same goes with Sunday mornings when that law was changed. I was out there unfortunately posing a risk to the community so I could buy alcohol. And I didn't have that opportunity to try to...you know, I didn't choose to take that opportunity to not do that. You know, it's just scary to me to allow alcohol sales whenever they are. You know, in closing, I don't know what the financial implications are with this, but the risk of increased DUIs, the risk of alcohol-related accidents, and just the social problems we see with alcohol consumption, you know, I fear would increase. So I thank you for your time. Are there any questions? [LB330]

SENATOR COASH: All right. Thank you, Mr. Bollinger, for sticking it out and sharing your story with us. Appreciate your testimony. I don't see any questions from the committee. Thank you very much. Okay, we'll take the next testifier. Welcome. [LB330]

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JAIMI CALFEE: Senator Coash and General Affairs Committee, I'm here to tell you to tell you a little bit of a story. [LB330]

SENATOR COASH: Could you start with your name and spell it for the record for us. [LB330]

JAIMI CALFEE: Sorry. [LB330]

SENATOR COASH: That's fine. [LB330]

JAIMI CALFEE: (Exhibit __) Jaimi Calfee, J-a-i-m-i, last name C-a-l-f-e-e. I am here as an opponent of LB330, basically the 24/7 bar hours. The last time I saw my daughter alive was August 21, 2011, 140 days ago...and I'm going to read you the victim impact statement I read to Judge Vaughan January 23, 2012. So I'm going to start over. Sorry. I know I only have three minutes but... [LB330]

SENATOR COASH: Take your time. [LB330]

JAIMI CALFEE: I'm going to try and get through a couple things, four paragraphs. The last time I saw my daughter alive was on August 21, 2011, 140 days ago, when I drove her back to school. I never, ever imagined that day in Wayne would be the last time I would receive a big hug from her, the last time I would see her beautiful smile and hear her little laugh and hold her warm hand, watch her sleep on the way up from home. I never imagined, not even in my worst nightmares that I would have to write a letter to a district judge on behalf of my daughter. I am now associated with a club I never wanted or thought I would ever belong to, a mother who has lost her child. I never thought I would associated with MADD. I never thought I would create a charitable foundation in her name. I never thought I would have to buy a cemetery plot, pick out a casket, clothes, plan a funeral, write an obituary, or worst of all, identify my daughter's body. I lost my daughter Alexis at age 18 on September 9, 2011, my own 9/11, in a

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car-motorcycle crash caused by a drunken Robert Mahler who chose to spend the afternoon at the Lariat Bar in Jackson, Nebraska, drinking. Once he was good and drunk, he decided he needed to get behind the wheel of his car which became a motorized missile in his control and attempt to drive. He made these horrible decisions even though he had just gotten off probation for drunk driving August 4, 2011, one month before. The sad thing is he had done this several times but only got caught a handful of times. I had heard there was a DUI that was pled down to a reckless, a DUI in 1978. There were four in Wisconsin: March 1984, Halloween 1984, March 1985, and another one that was dismissed. In Nebraska, he had one in May 2010, and then the fateful September 2011, where he snuffed out the bright lives of two college students who decided to enjoy the beautiful weather and ride a motorcycle to dinner. He made the decision that cost Lexi and Chris their lives just as if he had used a gun and shot into a crowded room. Now I know that when people leave the bars here in Lincoln they usually attend after-hour parties or they go home and go to bed. I think keeping the bars open 24/7 will decrease on these parties and this will allow people to keep drinking in the bar and getting drunker. At after-hours parties, I know people usually eat and they socialize or sleep or stay the night and then drive home sober and get home safely. Sometimes I go to work at 6:20 in the morning or get off at 7:15 a.m. and I feel like 24/7 bars will put me at a greater risk. Also, many people go out for early morning runs or bicycle rides or go to early church service. What are you going to say when a family gets killed on the way to church in rural Nebraska or right here on 84th Street in Lincoln. Most of the places in America that have 24/7 bars have 24/7 public transit. If we allow for this bill then we need to add this as a requirement in Nebraska. I'm talking 24/7 busses in Lincoln and Omaha, not just taxis. I also think a dram shop law needs to be added to our state's law. I feel if a person is given a license to sell, they should be responsible for everyone served at their establishment because what about those that kill because they were overserved and then sold alcohol for the road? We need laws that protect our society from those that can't say when or won't, or won't call a ride to get home safely. We don't need laws to make it easier for and allow them to get drunker and unable to be rational. [LB330]

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SENATOR COASH: Okay. [LB330]

JAIMI CALFEE: We don't need laws so the seller can sell more alcohol like soda pop. Alcohol is not soda pop. It affects a person's decision. It's a drug. Soda pop just affects a person's health. [LB330]

SENATOR COASH: Ms. Calfee, Ms. Calfee. [LB330]

JAIMI CALFEE: If our drunk driver's server would have called him a ride, our hearts would be intact today. I have one more paragraph. Drinking alcohol leads to domestic violence, rape, street violence, death, job loss, unplanned pregnancy, and drunk driving crashes to name a few. Sure, it's fun to party, go out, get drunk, catch a buzz, but so many in our society can't handle the responsibility of knowing when to say when. So if we do pass this, we're letting them drink all day, all night now. Let's let them drink all day and night at the bar and then try to find a way home at 7 or 8 in the morning during rush hour traffic. Drunk driving will increase with this bill and is one of the two most socially accepted crimes in America, right along with domestic violence. And usually it's a product of...which is usually a product of alcohol consumption. I am against this bill. My daughter was killed by a man who spent most of his free time in a bar most of his life. On the day she was killed, he had been at the bar on his day off drinking the entire day. She had been at school. He left the bar with six pack and a bottle of whiskey, told the bartender he was headed to the river. She watched him leave. His official BAC was .196 a couple hours after the crash. The first I heard was higher at .265. My daughter Alexis and her boyfriend Chris Oberg's BACs were .000. The only mistake they made was enjoying a motorcycle ride on a beautiful September day, always told to get home on the bike before dark to avoid deer and drunks. [LB330]

SENATOR COASH: Okay, Ms. Calfee. Ms. Calfee. [LB330]

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JAIMI CALFEE: It was 6:26 when the call came in. My family's nightmare started then. We did not know until almost 11 p.m. that night that our daughter was killed. So I'm asking you senators and Senator Larson specifically, which of your two children are you willing to give up if a drunk crashes into you on a beautiful early Sunday morning after they leave the bar at 6:00 a.m.? Thank you. [LB330]

SENATOR COASH: Okay. Thank you. Thank you for your testimony, Ms. Calfee. Appreciate you sharing your story. Before we let you get up, we'll see if we have any questions from the committee. I don't see any. Thanks again for coming. [LB330]

JAIMI CALFEE: Thank you. [LB330]

SENATOR COASH: Next testifier. [LB330]

CHRISTIE ABDUL: Good evening. Is anyone hungry yet? (Laugh) [LB330]

SENATOR COASH: Welcome. [LB330]

CHRISTIE ABDUL: (Exhibit _) My name is Christie Abdul, C-h-r-i-s-t-i-e, last name A-b-d-u-l, and I'm testifying on behalf of the National Association of Social Workers. I'm not going to go through all the data. I know you're going to get some of that later. But specifically testifying against the 24 hour, 7 liquor license. As Reggie testified earlier, I personally have been impacted because of someone I love and how that would impact them. And I don't believe if you had 24 hour, 7 day a week sales that some of the people I love would be alive because they wouldn't have time to take pause. I also think that, let's use common sense. Who needs to buy alcohol at 3 in the morning, really? If you can't plan far enough ahead to buy by 2:00 in the morning, you probably don't need to buy from 2 to 6 a.m. if that's necessary. And we shouldn't take away the local ability to make that decision. According to the CDC, Nebraska ranks number two in binge drinking. Grand Island, Norfolk, Lincoln, and Omaha are in the top 15 cities in the

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country for binge drinking. I work in healthcare and I see people come into our emergency rooms usually injured from their alcohol use or people who have been injured by their alcohol use. So I just think that the increased availability of alcohol is not going to help our community or our families. Also, Senator Kolterman, to speak to the powdered alcohol, I let Google do a little walking while I was sitting there. And it looks as though Alaska, Delaware, Louisiana, South Carolina, Vermont, and New York have banned powdered alcohol. And Colorado, today, initiated some legislation to ban powdered alcohol. So the states are continuing to look at that. In talking to high schoolers who will put vodka in their water bottles and sneak this alcohol into school, I think having packets of powder that students can then easily sneak into school and how this will be marketed probably to young people is not going to be good for our country...or for our state and for our young people. So I would just ask on behalf of the National Association of Social Workers and as a citizen of this great state that we look to not change the hours that we are able to provide alcohol and that we look at not allowing the sale of powdered alcohol. Thank you. [LB330]

SENATOR COASH: Okay. Thank you, Ms. Abdul. Let's see if we have any questions for you. Seeing none, thanks for your testimony. We'll take the next testifier in opposition. Welcome, Ms. Carritt. [LB330]

NICOLE CARRITT: (Exhibit _) I'm going to apologize already. Hello, good evening, Senator Coash and members of the committee. I didn't get the memo on the electronic information. So I'm sorry, you've all got a packet. My name is Nicole Carritt, N-i-c-o-l-e C-a-r-r-i-t-t, and I'm the executive director of Project Extra Mile. We're a network of community partnerships across the state working to prevent underage drinking and its tragic consequences. And we're here today to oppose LB330. On behalf of our coalition partners, I want to share our grave concerns about this bill. Opponents like us are simply here to ask when do the costs outweigh any perceived benefits, and are we ready as a society to accept the inevitable consequences of this bill? Nebraska has seen solid reductions in the prevalence of underage drinking over the past two decades.

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And that progress and the work of committed people all across the state hangs in the balance. Reducing underage drinking, excessive alcohol consumption, and the related harms in the state requires action based on the available literature. According to data from the CDC, Nebraska ranks number 9 in the country for adult binge drinking rates and 4 Nebraska communities rank in the top 15 out of nearly 200 that were indexed. Furthermore, excessive alcohol consumption including binge drinking and underage drinking costs the state of Nebraska \$1.1 billion alone in 2006. Our written testimony will reflect the full breadth of our concerns and detail the research supporting our position. So that's what I've given the clerk. However, I'd like to outline the most troublesome pieces today. Contrary to supporting claims that repealing Section 53-179 to eliminate the hours on sale would reduce alcohol-related problems, the scientific evidence shows quite clearly that eliminating these limits as LB330 would increase alcohol-related incidents like motor vehicle crash injuries, emergency room admissions, and instances of driving under the influence. The fiscal note for LB330 shows that the Nebraska State Patrol would require at least an additional \$1.3 million in fiscal year '15-16 to enforce these changes. This figure of course does not include the cost for additional local law enforcement as well as the socioeconomic cost to individuals, families, and main street will face. As a change in the classification of hard cider to beer not only affects the tax rate, it also makes access to these products easier by expanding the types of liquor license classes that may sell the product. A cider is fermented from fruit. It's more akin to wine than beer and leaves no reason for reclassification. I'd like to draw your attention again to the fiscal note showing an estimated loss in tax revenue to the state of nearly \$159,000 for this change alone. Moreover, the evidence-based literature indicates increasing the unit price of alcohol is consistently related to less alcohol impaired driving and mortality from alcohol poisoning and fewer motor vehicle crashes and fatalities. In reference to powdered alcohol, instead of redefining it to include powdered form and allowing the Liquor Control Commission to regulate it, we'd encourage Nebraska to follow the lead of a growing number of states by enacting a law to ban the product altogether. Former Commissioner Bill Austin was quoted in a recent Journal Star article saying: I think the state ought to make every effort to ban it. This is

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going to be the Kool-Aid of the liquor set. Senators, we're at a critical juncture in our state when it comes to how and if we address the issue surround our alcohol-related problems. And the science is clear. Those problems won't be solved by making the product more available, less expensive, or less regulated. In our view, LB330's costs, both social and economic far exceed its benefits. And we'd respectfully urge committee members to vote to indefinitely postpone the bill. Thank you for your comments. I'd be happy to take any questions. [LB330]

SENATOR COASH: Okay. Thank you, Ms. Carritt. I just want to clarify for the record. You testified on the hours of operation, the cider provision, and recommended banning powder. But do you...the bill as proposed gives the liquor commission that authority. Does that help? [LB330]

NICOLE CARRITT: And when we read the bill, we understood that. We just think that there is so much harm from what we've read, the things that we've seen, what other states have done. Of course it's a huge unknown. We don't know what the TTB will do. Hobie certainly answered that and the time frame that we're looking at. But in terms of the ability for it to be concealed, from what I've understood, the packaging looks like Capri Suns, much like Kool-Aid as Senator Kolterman kind of talked about. So I think our concern is because of so many unknowns as Hobie even talked about, I think we have an opportunity to be a leader in this state in banning the product as opposed to those decisions. [LB330]

SENATOR COASH: Okay. And the other seven provisions of the bill you have no comment on. [LB330]

NICOLE CARRITT: Not in three minutes. Our written testimony will talk to some of that. The keg provision is certainly concerning. When we talked to our law enforcement partners, kegs are really important and keg registration is really important. But the thought of having hard liquor or something like that because that certainly leaves it wide

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open, we talked to our law enforcement partners and they...when they break up an underage drinking party, they're finding more and more hard alcohol. They're seeing higher and higher blood alcohol content. And we think that this is really concerning. So that's one piece. [LB330]

SENATOR COASH: Okay. Well, the reason I ask, and maybe we've got law enforcement here to testify to that. I'm going to ask...I'm sure you're telling the truth, but if law enforcement had a...believe me, been on this committee seven years. When law enforcement has a problem, they don't have any problem coming up to the hearing and saying, hey, hang on a second. Changing the way that we register kegs is going to cause us big problems or increase...or be a safety risk. [LB330]

NICOLE CARRITT: Senator Coash, I'm not here to give you any lines. If they come back and say something different, that's...I'd certainly have that conversation. But I do know that that's what we've heard from them in our dealings with them. [LB330]

SENATOR COASH: Okay, all right. [LB330]

NICOLE CARRITT: I think that the church piece is concerning. I think it's just an extra hurdle. We've worked with churches many times. And we know in some of the small communities there's not staff in those churches 24/7. Sometimes it's Sunday mornings at 7 as they get ready to let people in the door. And I think there's an opportunity that they miss the letter that comes in. And we monitor the Liquor Control Commission hearings. We have a staff there most months. I think that we can see--we don't have numbers in front of me today--but it's not something that they're seeing four or five of them every month, something that's a huge burden. [LB330]

SENATOR COASH: Well, I think that was the point. They're not seeing them and, therefore, we might as well change the law to be more convenient for both parties. [LB330]

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NICOLE CARRITT: And I understand. I think one thing that having the hearing required provides is the opportunity...100 feet isn't that far. It provides the opportunity for the commission to bring that applicant in and to just say you're within 150 feet of a church. We recognize that. Maybe we've gotten a letter from the church. Maybe we haven't. But it provides them the opportunity to say have you talked with the church? Have you had the opportunity to have some discourse with them over any concerns? [LB330]

SENATOR COASH: Okay. [LB330]

NICOLE CARRITT: Just one other. [LB330]

SENATOR COASH: You have another one that you're opposed? [LB330]

NICOLE CARRITT: I'm sorry. I'm really sorry. [LB330]

SENATOR COASH: That's fine I thought there would probably be more than three. [LB330]

NICOLE CARRITT: Senator Coash, the other piece is just the ability for the commission to sell the seized alcohol. I think...I know that there are likely other states that allow that to be done. I think it's a bit concerning that we would have our regulatory agency get into the business of selling the alcohol. And likely if that was to go to auction, to the wholesalers, that's likely to be sold on pennies on the dollar. And so I think that that's...when we talk about maybe increased tax revenue and those kind of things, I don't it's going to be as much as...talking about 30 cases of Maker's Mark... [LB330]

SENATOR COASH: Okay. [LB330]

NICOLE CARRITT: ...might end up being. [LB330]

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SENATOR COASH: Okay. We have a question. Senator Riepe. [LB330]

SENATOR RIEPE: Thank you, Senator Coash. You've been very patient. You've been out there since 1:30 and we appreciate that very much. Mine is one of clarification and education. And is Extra Mile similar or like MADD moms kind of or is it...? [LB330]

NICOLE CARRITT: A bit different. Our organization focuses on preventing underage drinking. And I can tell you more about that. But we're a statewide nonprofit. And we work with and provide technical assistance to communities all across the state. We focus a lot on what the research says which is why you'll have a packet of research in front of you hopefully to review. But our focus is really to take the research and to look at things like policy initiatives, enforcement collaborations, working with our youth and coalition building to address some of the problems that I've referenced today. [LB330]

SENATOR RIEPE: Thank you. [LB330]

NICOLE CARRITT: You're welcome. [LB330]

SENATOR COASH: Thank you, Senator Riepe. Any other questions for Ms. Carritt? I don't see any. Thanks for sticking it out. [LB330]

NICOLE CARRITT: Thank you all. [LB330]

SENATOR COASH: Okay, we'll take the next testifier in opposition. Welcome. [LB330]

LANETTE RICHARDS: (Exhibit _) Good evening. My name is Lanette Richards, L-a-n-e-t-t-e R-i-c-h-a-r-d-s, and I'm project coordinator for Monument Prevention Coalition in Scottsbluff. Our coalition focuses on preventing underage and excessive alcohol consumption. I come to you today on behalf of the coalition and to carry a voice

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from western Nebraska in opposition to LB330. Monument Prevention Coalition's work is based on successful strategies that have been proven to work. We use the environmental prevention approach along with the evidence-based recommendations to prevent excessive alcohol consumption and related harms laid out by the Community Preventative Services Task Force to guide the work that we do. Of the seven recommended strategies by this task force, LB330 completely contradicts three of the seven evidence-based recommended strategies. This is a bill that if passed would undoubtedly be harmful to all Nebraska. I'm going to focus on three areas of the proposal. First, I'll focus on the repeal of Section 53-179 which would allow alcohol to be sold 24 hours a day, 7 days a week across the state. Studies show that extending hours of sale is a factor in excessive alcohol consumption and the related problems such as injuries, violence, liver diseases, and cancer. According to the National Institute on Alcohol Abuse and Alcoholism, Nebraska ranks tenth in the nation for highest alcohol consumption per capita as well as fourth in the nation for highest number of DUIs. And then when we look at youth under 21, Nebraska ranks ninth in the nation for binge drinking and third for teens driving after drinking and also third in the nation for riding with a drinking driver. And that's according to NIAAA. When it comes to Scotts Bluff County, we have had a higher rate of alcohol-related crashes and fatalities. According to the National Highway Traffic Safety Administration and the Nebraska Office of Highway Safety, the total fatalities since 2008 is 37, and 15 of those were alcohol-related crashes. Next I'd like to address powdered alcohol. If approved by the TTB, this is a product that would be dangerous to old and young alike. There are potential dangers of allowing this product and warrant a stronger stance and legislative action from the state, action that would not allow the Liquor Control Commission to regulate it but to ban the sale and manufacture of such product in Nebraska, an action that would follow the lead of several other states. Finally, I would like to address the provision that would reclassify hard liquor from wine to beer reducing the tax per gallon from 95 cents to 31 cents per gallon. At a time when the Legislature is being tasked to identify additional sources of revenue to provide property tax relief, why would this body choose to give more tax breaks to the alcohol industry? In addition to reducing the tax

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rate, this would allow this product to be sold at more establishments. Young people are particularly sensitive to price changes and the literature is clear. As price increase, youth access to alcohol decreases. In closing, it appears that we are a state where alcohol is involved in everything we do whether it is recreational or whether it is the loss of life. This proposal is dangerous and has the potential to do great harm to Nebraska and we ask you, Senators, to indefinitely postpone it. Thank you for your considerations on my comments. [LB330]

SENATOR COASH: Okay. Thank you, Ms. Richards. Thank you for coming all the way from out west. [LB330]

LANETTE RICHARDS: Thank you for the opportunity. [LB330]

SENATOR COASH: I just want to make sure the record is clear. Your testimony was not on whole bill. [LB330]

LANETTE RICHARDS: No, it was on three. [LB330]

SENATOR COASH: It was on the provisions of the sale hours, the hard cider, and... [LB330]

LANETTE RICHARDS: The powdered alcohol, the 24/7, and the hard cider taxation. [LB330]

SENATOR COASH: Okay. And you have no comment on the others. [LB330]

LANETTE RICHARDS: I'm kind of like Nikki was. No, I'm not going to comment. It just takes too long. [LB330]

SENATOR COASH: If you do, you're welcome to e-mail the committee and we'll take

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that into consideration. Thank you for your testimony. [LB330]

LANETTE RICHARDS: Yeah, okay. Thank you. [LB330]

SENATOR COASH: Let's see if we have any questions. Seeing none, thanks for coming all the way here today. [LB330]

LANETTE RICHARDS: Thank you. [LB330]

SENATOR COASH: Come on up, the next testifier. While you're making your way up, can I see a show of hands on how many folks we have remaining to testify. Okay, so this looks like the...thanks for hanging out all day. [LB330]

CHARLES KAUP: Am I going to be the last one? [LB330]

SENATOR COASH: Well, we may call Hobie back up here but he's used to that. [LB330]

CHARLES KAUP: Oh, my back was turned. [LB330]

SENATOR COASH: Welcome. [LB330]

CHARLES KAUP: Gentlemen, thank you for having us here today. I'm here on behalf...well, not on behalf but I'm here in the capacity as a student of the School of Social Work at the University of Nebraska at Omaha in concerns to the sale of 24...the 24-hour sale of alcohol. I might be repeating a lot of facts here today, but I thought that my words might be a little bit more understandable than my handwriting. So I just wanted to point out to you guys that in Nebraska, we rank in the top ten in the country in deaths for children under the age of 21, adults over the age of 21 as a result of alcohol-related car crashes. And we also rank in the top 10 in the country in binge

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drinking for people under the age of 21. [LB330]

SENATOR COASH: Could I get you to pause just real quick. [LB330]

CHARLES KAUP: Oh, I'm sorry. [LB330]

SENATOR COASH: Could you give us your name. [LB330]

CHARLES KAUP: Oh, you guys don't know me already? (Laugh) I'm Charles Kaup, C-h-a-r-l-e-s K-a-u-p. [LB330]

SENATOR COASH: Thank you. [LB330]

CHARLES KAUP: I apologize for that. I also wanted to point out that 24-hour liquor sales are going to put our community at a greater risk for harm. A lot of people are going to say that 24-hour liquor sales are going to make our streets safer because you won't have the influx of people coming out into the street at 2 a.m. and that will decrease the amount of drunk drivers at that time. I would say that making that available 24 hours is actually going to make it more dangerous. You're going to increase the amount of time that those people are out drinking in the streets. And with the lack of public transportation, especially in Omaha, those people aren't going to have a safe alternative to get home regardless of how many taxis we have out in the street. Also, I just wanted to touch on the powdered alcohol. It's something that I feel is very important. You don't want to make that kind of stuff more accessible to kids in our communities. Kids these days are becoming ever so sneaky with how they're drinking and where they're getting it. I think if you put it in a powdered form it would be much easier for them to take it out its original packaging and put it into something a little less recognizable by their teachers and dorm officials and people like that. So in closing, I think that some of this legislation that's been proposed puts our communities at a greater risk for harm due to the availability and the increased alcohol sales. So thank

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you. [LB330]

SENATOR COASH: Thank you, Mr. Kaup. Appreciate you hanging around here all day. [LB330]

CHARLES KAUP: I'm glad the only question was, what was my name? (Laughter) [LB330]

SENATOR COASH: I think it's all been covered. I don't see any questions from the committee. So I appreciate your testimony. [LB330]

CHARLES KAUP: Awesome. Thank you, guys. [LB330]

SENATOR COASH: Last call for anybody that would like to testify in opposition to LB330. Seeing none, is there anybody here that wishes to testify in a neutral capacity? I don't see any. And I think Hobie gave us a good opener. So we know where to find him if we have additional questions. So we thank you for your testimony. Senator Larson, would you like to close? You can close from right there if you want to. [LB330]

SENATOR LARSON: No. We will have a short Exec...or just a short talk. We aren't actually going to go into Exec Session and decide on bills. But I'd like all of you to stay here for a minute. [LB330]

SENATOR COASH: Okay. With that, we'll close the hearing on LB330. Thanks for your time today. (See also Exhibits _) [LB330]